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St. Thomas Aquinas

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QQ. XXXIV.—LXVIII.

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THE "SUMMA THEOLOGICA"

THIRD PART (SUPPLEMENT).

QUESTION XXXIV.

OF THE SACRAMENT OF ORDER AS TO ITS ESSENCE AND ITS PARTS.

(*In Five Articles.*)

In the next place we must consider the sacrament of Order: (1) Order in general; (2) the difference of Orders; (3) those who confer Orders; (4) the impediments to receiving Orders; (5) things connected with Orders.

Concerning Order in general three points have to be considered: (1) Its essence, quiddity, and parts. (2) Its effect. (3) The recipients of Orders.

Under the first head there are five points of inquiry: (1) Whether there should be Order in the Church? (2) Whether it is fittingly defined? (3) Whether it is a sacrament? (4) Whether its form is expressed properly? (5) Whether this sacrament has any matter?

First Article.

WHETHER THERE SHOULD BE ORDER IN THE CHURCH?

We proceed thus to the First Article :—

Objection 1. It would seem that there should not be Order in the Church. For Order requires subjection and pre-eminence. But subjection seemingly is incompatible with the liberty whereunto we are called by Christ. Therefore there should not be Order in the Church.

Obj. 2. Further, He who has received an Order becomes another's superior. But in the Church everyone should deem himself lower than another (Phil. ii. 3): *Let each esteem others better than themselves.* Therefore Order should not be in the Church.

Obj. 3. Further, We find Order among the angels on account of their differing in natural and gratuitous gifts. But all men are one in nature, and it is not known who has the higher gifts of grace. Therefore Order should not be in the Church.

*On the contrary, Those things that are of God, are in order.** Now the Church is of God, for He Himself built it with His blood. Therefore there ought to be Order in the Church.

Further, The state of the Church is between the state of nature and the state of glory. Now we find order in nature, in that some things are above others, and likewise in glory, as in the angels. Therefore there should be Order in the Church.

I answer that, God wished to produce His works in likeness to Himself, as far as possible, in order that they might be perfect, and that He might be known through them. Hence, that He might be portrayed in His works, not only according to what He is in Himself, but also according as He acts on others, He laid this natural law on all things, that last things should be reduced and perfected by middle things, and middle things by the first, as Dionysius says (*Eccl. Hier.* v.). Wherefore that this beauty might not be lacking to the Church, He established Order in her so that some should deliver the sacraments to others, being thus made like to God in their own way, as co-operating with God; even as in the natural body, some members act on others.

Reply Obj. 1. The subjection of slavery is incompatible with liberty; for slavery consists in lording over others and employing them for one's own profit. Such subjection is not required in Order, whereby those who preside have to seek the salvation of their subjects and not their own profit.

* Vulg.,—*Those* (powers) *that are, are ordained of God.*

Reply Obj. 2. Each one should esteem himself lower in merit, not in office; and Orders are a kind of office.

Reply Obj. 3. Order among the angels does not arise from difference of nature, unless accidentally, in so far as difference of grace results in them from difference of nature. But in them it results directly from their difference in grace; because their orders regard their participation of divine things, and their communicating them in the state of glory, which is according to the measure of grace, as being the end and effect, so to speak, of grace. On the other hand, the Orders of the Church militant regard the participation in the sacraments and the communication thereof, which are the cause of grace and, in a way, precede grace; and consequently our Orders do not require sanctifying grace, but only the power to dispense the sacraments; for which reason Order does not correspond to the difference of sanctifying grace, but to the difference of power.

SECOND ARTICLE.

WHETHER ORDER IS PROPERLY DEFINED?

We proceed thus to the Second Article :—

Objection 1. It would seem that Order is improperly defined by the Master (iv. *Sent.* D. 53), where it is said *Order is a seal of the Church, whereby spiritual power is conferred on the person ordained.* For a part should not be described as the genus of the whole. Now the character which is denoted by the seal in a subsequent definition is a part of order, since it is placed in contradistinction with that which is either reality only, or sacrament only, since it is both reality and sacrament. Therefore seal should not be mentioned as the genus of Order.

Obj. 2. Further, Just as a character is imprinted in the sacrament of Order, so is it in the sacrament of Baptism. Now character was not mentioned in the definition of Baptism. Therefore neither should it be mentioned in the definition of Order.

Obj. 3. Further, In Baptism there is also given a certain

spiritual power to approach the sacraments; and again it is a seal, since it is a sacrament. Therefore this definition is applicable to Baptism; and consequently it is improperly applied to Order.

Obj. 4. Further, Order is a kind of relation, and relation is realized in both its terms. Now the terms of the relation of Order are the superior and the inferior. Therefore inferiors have Order as well as superiors. Yet there is no power of pre-eminence in them, such as is mentioned here in the definition of Order, as appears from the subsequent explanation (*loc. cit.*), where promotion to power is mentioned. Therefore Order is improperly defined there.

I answer that, The Master's definition of Order applies to Order as a sacrament of the Church. Hence he mentions two things, namely the outward sign, a *kind of seal*—i.e., a kind of sign—and the inward effect, *whereby spiritual power,* etc.

Reply Obj. 1. Seal stands here, not for the inward character, but for the outward action, which is the sign and cause of inward power; and this is also the sense of character in the other definition. If, however, it be taken for the inward character, the definition would not be unsuitable; because the division of a sacrament into those three things is not a division into integral parts properly speaking; since what is reality only is not essential to the sacrament, and that which is the sacrament is transitory; while that which is sacrament and reality is said to remain. Wherefore it follows that inward character itself is essentially and principally the sacrament of Order.

Reply Obj. 2. Although in Baptism there is conferred a spiritual power to receive the other sacraments, for which reason it imprints a character, nevertheless this is not its principal effect, but the inward cleansing; wherefore Baptism would be given even though the former motive did not exist. On the other hand, Order denotes power principally. Wherefore the character which is a spiritual power is included in the definition of Order, but not in that of Baptism.

Reply Obj. 3. In Baptism there is given a certain spiritual potentiality to receive, and consequently a somewhat passive potentiality. But power properly denotes active potentiality, together with some kind of pre-eminence. Hence this definition is not applicable to Baptism.

Reply Obj. 4. The word 'order' is used in two ways. For sometimes it denotes the relation itself, and thus it is both in the inferior and in the superior, as the objection states; but it is not thus that we use the word here. On the other hand, it denotes the degree which results in the order taken in the first sense. And since the notion of order as relation is observed where we first meet with something higher than another, it follows that this degree of pre-eminence by spiritual power is called Order.

THIRD ARTICLE.

WHETHER ORDER IS A SACRAMENT?

We proceed thus to the Third Article :—

Objection 1. It would seem that Order is not a sacrament. For a sacrament, according to Hugh of S. Victor (*De Sacram.* i.) is *a material element.* Now Order denotes nothing of the kind, but rather relation or power; since Order is a part of power according to Isidore. Therefore it is not a sacrament.

Obj. 2. Further, The sacraments do not concern the Church triumphant. Yet Order is there, as in the angels. Therefore it is not a sacrament.

Obj. 3. Further, Just as spiritual authority, which is Order, is given by means of consecration, so is secular authority, since kings also are anointed, as stated above (Q. XIX., A. 3, *ad* 2). But the kingly power is not a sacrament. Therefore neither is Order of which we speak now.

On the contrary, It is mentioned by all among the seven sacraments of the Church.

Further, *The cause of a thing being such, is still more so.* Now Order is the cause of man being the dispenser of the

other sacraments. Therefore Order has more reason for being a sacrament than the others.

I answer that, As stated above (Q. XXIX., A. 1; P. III., Q. LX.), a sacrament is nothing else than a sanctification conferred on man with some outward sign. Wherefore, since by receiving Orders a consecration is conferred on man by visible signs, it is clear that Order is a sacrament.

Reply Obj. 1. Although Order does not by its name express a material element, it is not conferred without some material element.

Reply Obj. 2. Power must needs be proportionate to the purpose for which it is intended. Now the communication of divine things, which is the purpose for which spiritual power is given, is not effected among the angels by means of sensible signs, as is the case among men. Hence the spiritual power that is Order is not bestowed on the angels by visible signs, as on men. Wherefore Order is a sacrament among men, but not among angels.

Reply Obj. 3. Not every blessing or consecration given to men is a sacrament, for both monks and abbots are blessed, and yet such blessings are not sacraments, and in like manner neither is the anointing of a king; because by such blessings men are not ordained to the dispensing of the divine sacraments, as by the blessing of Order. Hence the comparison fails.

Fourth Article.

whether the form of this sacrament is suitably expressed?

We proceed thus to the Fourth Article :—

Objection 1. It would seem that the form of this sacrament is unsuitably set forth in the text (iv. *Sent.* D. 24). Because the sacraments take their efficacy from their form. Now the efficacy of the sacraments is from the divine power, which works our salvation in them in a most hidden manner. Therefore the form of this sacrament should include a

mention of the divine power by the invocation of the Trinity, as in the other sacraments.

Obj. 2. Further, To command pertains to one who has authority. Now the dispenser of the sacrament exercises no authority, but only ministry. Therefore he should not use the imperative mood by saying: *Do* or *Receive* this or that, or some similar expression.

Obj. 3. Further, Mention should not be made in the sacramental form, except of such things as are essential to the sacrament. But the use of the power received is not essential to this sacrament, but is consequent upon it. Therefore it should not be mentioned in the form of this sacrament.

Obj. 4. Further, All the sacraments direct us to an eternal reward. But the forms of the other sacraments make no mention of a reward. Therefore neither should any mention be made thereof in the form of this sacrament, as in the words: *Since thou wilt have a share, if faithfully,* etc.

I answer that, This sacrament consists chiefly in the power conferred. Now power is conferred by power, as like proceeds from like; and again power is made known by its use, since powers are manifested by their acts. Wherefore in the form of Order the use of Order is expressed by the act which is commanded; and the conferring of power is expressed by employing the imperative mood.

Reply Obj. 1. The other sacraments are not ordained chiefly to effects similar to the power whereby the sacraments are dispensed, as this sacrament is. Hence in this sacrament there is a kind of universal communication. Wherefore in the other sacraments something is expressed on the part of the divine power to which the effect of the sacrament is likened, but not in this sacrament.

Reply Obj. 2. [There is a special reason why this sacrament, rather than the others, is conferred by employing the imperative mood. For]* although the bishop who is the minister of this sacrament has no authority in respect of

* The sentence in brackets is not in the Leonine edition.

the conferring of this sacrament, nevertheless he has some power with regard to the power of Order, which power he confers, in so far as it is derived, from his.

Reply Obj. 3. The use of power is the effect of power in the genus of efficient cause, and from this point of view it has no reason to be mentioned in the definition of Order. But it is somewhat a cause in the genus of final cause, and from this point of view it can be placed in the definition of Order.

Reply Obj. 4. There is here a difference between this and the other sacraments. Because by this sacrament an office or the power to do something is conferred; and so it is fitting that mention be made of the reward to be obtained if it be administered faithfully. But in the other sacraments no such office or power to act is conferred, and so no mention of reward is made in them. Accordingly the recipient is somewhat passive in relation to the other sacraments, because he receives them for the perfecting of his own state only, whereas in relation to this sacrament he holds himself somewhat actively, since he receives it for the sake of exercising hierarchical duties in the Church. Wherefore although the other sacraments, from the very fact that they give grace, direct the recipient to salvation, properly speaking they do not direct him to a reward, in the same way as this sacrament does.

Fifth Article.

whether this sacrament has any matter?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that this sacrament has no matter. Because in every sacrament that has a matter the power that works in the sacrament is in the matter. But in the material objects which are used here, such as keys, candlesticks, and so forth, there is not apparently any power of sanctification. Therefore it has no matter.

Obj. 2. Further, In this sacrament the fulness of sevenfold grace is conferred, as stated in the text (iv. *Sent.*

D. 24), just as in Confirmation. But the matter of Confirmation requires to be consecrated beforehand. Since then the things which appear to be material in this sacrament are not consecrated beforehand, it would seem that they are not the matter of the sacrament.

Obj. 3. Further, In any sacrament that has matter there needs to be contact of matter with the recipient of the sacrament. Now, as some say, it is not essential to this sacrament that there be contact between the aforesaid material objects and the recipient of the sacrament, but only that they be presented to him. Therefore the aforesaid material objects are not the matter of this sacrament.

On the contrary, Every sacrament consists of things and words. Now in any sacrament the thing is the matter. Therefore the things employed in this sacrament are its matter.

Further, More is requisite to dispense the sacraments than to receive them. Yet Baptism, wherein the power is given to receive the sacraments, needs a matter. Therefore Order also does, wherein the power is given to dispense them.

I answer that, The matter employed outwardly in the sacraments signifies that the power which works in the sacraments comes entirely from without. Wherefore, since the effect proper to this sacrament, namely the character, is not received through any operation of the one who approaches the sacrament, as was the case in Penance, but comes wholly from without, it is fitting that it should have a matter, yet otherwise than the other sacraments that have matter; because that which is bestowed in the other sacraments comes from God alone, and not from the minister who dispenses the sacrament; whereas that which is conferred in this sacrament, namely the spiritual power, comes also from him who gives the sacrament, as imperfect from perfect power. Hence the efficacy of the other sacraments resides chiefly in the matter which both signifies and contains the divine power through the sanctification applied by the minister; whereas the efficacy of this sacrament resides chiefly with him who dispenses

the sacrament. And the matter is employed to show the powers conferred in particular by one who has it completely, rather than to cause power; and this is clear from the fact that the matter is in keeping with the use of power. This suffices for the *Reply* to the *First Objection.*

Reply Obj. 2. It is necessary for the matter to be consecrated in the other sacraments, on account of the power it contains; but it is not so in the case in point.

Reply Obj. 3. If we admit this assertion, the reason for it is clear from what we have said: for since the power of Order is received from the minister and not from the matter, the presenting of the matter is more essential to the sacrament than contact therewith. However, the words themselves of the form would seem to indicate that contact with the matter is essential to the sacrament, for it is said: *Receive* this or that.

QUESTION XXXV.

OF THE EFFECT OF THIS SACRAMENT.

(*In Five Articles.*)

WE must next consider the effect of this sacrament. Under this head there are five points of inquiry: (1) Whether sanctifying grace is conferred in the sacrament of Order? (2) Whether a character is imprinted in connection with all the Orders? (3) Whether the character of Order presupposes of necessity the character of Baptism? (4) Whether it presupposes of necessity the character of Confirmation? (5) Whether the character of one Order presupposes of necessity the character of another Order?

First Article.

WHETHER SANCTIFYING GRACE IS CONFERRED IN THE SACRAMENT OF ORDER?

We proceed thus to the First Article:—

Objection 1. It would seem that sanctifying grace is not conferred in the sacrament of Order. For it is commonly agreed that the sacrament of Order is directed to counteract the defect of ignorance. Now not sanctifying grace but gratuitous grace is given to counteract ignorance, for sanctifying grace has more to do with the will. Therefore sanctifying grace is not given in the sacrament of Order.

Obj. 2. Further, Order implies distinction. Now the members of the Church are distinguished, not by sanctifying but by gratuitous grace, of which it is said (1 Cor. xii. 4): *There are diversities of graces.* Therefore sanctifying grace is not given in Order.

Obj. 3. Further, No cause presupposes its effect. But grace is presupposed in one who receives Orders, so that he may be worthy to receive them. Therefore this same grace is not given in the conferring of Orders.

On the contrary, The sacraments of the New Law cause what they signify. Now Order by its sevenfold number signifies the seven gifts of the Holy Ghost, as stated in the text (iv. *Sent.* D. 24). Therefore the gifts of the Holy Ghost, which are not apart from sanctifying grace, are given in Orders.

Further, Order is a sacrament of the New Law. Now the definition of a sacrament of that kind includes the words, *that it may be a cause of grace.* Therefore it causes grace in the recipient.

I answer that, The works of God are perfect (Deut. xxxii. 4); and consequently whoever receives power from above receives also those things that render him competent to exercise that power. This is also the case in natural things, since animals are provided with members, by which their soul's powers are enabled to proceed to their respective actions unless there be some defect on the part of matter. Now just as sanctifying grace is necessary in order that man receive the sacraments worthily, so is it that he may dispense them worthily. Wherefore as in Baptism, whereby a man is adapted to receive the other sacraments, sanctifying grace is given, so is it in the sacrament of Order whereby man is ordained to the dispensation of the other sacraments.

Reply Obj. 1. Order is given as a remedy, not to one person but to the whole Church. Hence, although it is said to be given in order to counteract ignorance, it does not mean that by receiving Orders a man has his ignorance driven out of him, but that the recipient of Orders is set in authority to expel ignorance from among the people.

Reply Obj. 2. Although the gifts of sanctifying grace are common to all the members of the Church, nevertheless a man cannot be the worthy recipient of those gifts, in respect of which the members of the Church are distinguished from

one another, unless he have charity, and this cannot be apart from sanctifying grace.

Reply Obj. 3. The worthy exercise of Orders requires not any kind of goodness but excellent goodness, in order that as they who receive Orders are set above the people in the degree of Order, so may they be above them by the merit of holiness. Hence they are required to have the grace that suffices to make them worthy members of Christ's people, but when they receive Orders they are given a yet greater gift of grace, whereby they are rendered apt for greater things.

SECOND ARTICLE.

WHETHER IN THE SACRAMENT OF ORDER A CHARACTER IS IMPRINTED IN CONNEXION WITH ALL THE ORDERS?

We proceed thus to the Second Article:—

Objection 1. It would seem that in the sacrament of Order a character is not imprinted in connexion with all the Orders. For the character of Order is a spiritual power. Now some Orders are directed only to certain bodily acts, for instance those of the doorkeeper or of the acolyte. Therefore a character is not imprinted in these Orders.

Obj. 2. Further, Every character is indelible. Therefore a character places a man in a state whence he cannot withdraw. Now those who have certain Orders can lawfully return to the laity. Therefore a character is not imprinted in all the Orders.

Obj. 3. Further, By means of a character a man is appointed to give or to receive some sacred thing. Now a man is sufficiently adapted to the reception of the sacraments by the character of Baptism, and a man is not appointed to dispense the sacraments except in the Order of priesthood. Therefore a character is not imprinted in the other Orders.

On the contrary, Every sacrament in which a character is not imprinted can be repeated. But no Order can be repeated. Therefore a character is imprinted in each Order.

Further, A character is a distinctive sign. Now there

is something distinct in every Order. Therefore every Order imprints a character.

I answer that, There have been three opinions on this point. For some have said that a character is imprinted only in the Order of priesthood; but this is not true, since none but a deacon can exercise the act of the diaconate, and so it is clear that in the dispensation of the sacraments, he has a spiritual power which others have not. For this reason others have said that a character is impressed in the sacred, but not in the minor, Orders. But this again comes to nothing, since each Order sets a man above the people in some degree of authority directed to the dispensation of the sacraments. Wherefore since a character is a sign whereby one thing is distinguished from another, it follows that a character is imprinted in each Order. And this is confirmed by the fact that they remain for ever and are never repeated. This is the third and more common opinion.

Reply Obj. 1. Each Order either has an act connected with the sacrament itself, or adapts a man to the dispensation of the sacraments; thus doorkeepers exercise the act of admitting men to witness the Divine sacraments, and so forth; and consequently a spiritual power is required in each.

Reply Obj. 2. For all that a man may return to the laity, the character always remains in him. This is evident from the fact that if he return to the clerical state, he does not receive again the Order which he had already.

The *Reply* to the *Third Objection* is the same as to the *First.*

Third Article.

whether the character of order presupposes the baptismal character?

We proceed thus to the Third Article:—

Objection 1. It would seem that the character of Order does not presuppose the character of Baptism. For the character of Order makes a man a dispenser of the sacra-

ments; while the character of Baptism makes him a recipient of them. Now active power does not necessarily presuppose passive power, for it can be without it, as in God. Therefore the character of Order does not necessarily presuppose the character of Baptism.

Obj. 2. Further, It may happen that a man is not baptized, and yet think with probability that he has been baptized. If therefore such a person present himself for Orders, he will not receive the character of Order, supposing the character of Order to presuppose the character of Baptism; and consequently whatever he does by way of consecration or absolution will be invalid, and the Church will be deceived therein, which is inadmissible.

On the contrary, Baptism is the door of the sacraments. Therefore since Order is a sacrament, it presupposes Baptism.

I answer that, No one can receive what he has not the power to receive. Now the character of Baptism gives a man the power to receive the other sacraments. Wherefore he that has not the baptismal character, can receive no other sacrament; and consequently the character of Order presupposes the character of Baptism.

Reply Obj. 1. In one who has active power of himself, the active does not presuppose the passive power; but in one who has active power from another, passive power, whereby he is enabled to receive the active power, is prerequisite to active power.

Reply Obj. 2. Such a man if he be ordained to the priesthood is not a priest, and he can neither consecrate, nor absolve in the tribunal of Penance. Wherefore according to the canons he must be baptized, and reordained (Extra. *De Presbyt. non Bapt.*, cap. *Si quis;* cap. *Veniens*). And even though he be raised to the episcopate, those whom he ordains receive not the Order. Yet it may piously be believed that as regards the ultimate effects of the sacraments, the High Priest will supply the defect, and that He would not allow this to be so hidden as to endanger the Church.

Fourth Article.

Whether the character of Order necessarily presupposes the character of Confirmation?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that the character of Order necessarily presupposes the character of Confirmation. For in things subordinate to one another, as the middle presupposes the first, so does the last presuppose the middle. Now the character of Confirmation presupposes that of Baptism as being the first. Therefore the character of Order presupposes that of Confirmation as being in the middle.

Obj. 2. Further, Those who are appointed to confirm should themselves be most firm. Now those who receive the sacrament of Order are appointed to confirm others. Therefore they especially should have received the sacrament of Confirmation.

On the contrary, The apostles received the power of Order before the Ascension (Jo. xx. 22), where it is said: *Receive the Holy Ghost.* But they were confirmed after the Ascension by the coming of the Holy Ghost. Therefore Order does not presuppose Confirmation.

I answer that, For the reception of Orders something is prerequisite for the validity of the sacrament, and something as congruous to the sacrament. For the validity of the sacrament it is required that one who presents himself for Orders should be capable of receiving them, and this is competent to him through Baptism; wherefore the baptismal character is prerequisite for the validity of the sacrament, so that the sacrament of Order cannot be conferred without it. On the other hand, as congruous to the sacrament a man is required to have every perfection whereby he becomes adapted to the exercise of Orders, and one of these is that he be confirmed. Wherefore the character of Order presupposes the character of Confirmation as congruous but not as necessary.

Reply Obj. 1. In this case the middle does not stand in

the same relation to the last as the first to the middle, because the character of Baptism enables a man to receive the sacrament of Confirmation, whereas the character of Confirmation does not enable a man to receive the sacrament of Order. Hence the comparison fails.

Reply Obj. 2. This argument considers aptness by way of congruity.

FIFTH ARTICLE.

WHETHER THE CHARACTER OF ONE ORDER NECESSARILY PRESUPPOSES THE CHARACTER OF ANOTHER ORDER?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that the character of one Order necessarily presupposes the character of another Order. For there is more in common between one Order and another, than between Order and another sacrament. But the character of Order presupposes the character of another sacrament, namely Baptism. Much more therefore does the character of one Order presuppose the character of another.

Obj. 2. Further, The Orders are degrees of a kind. Now no one can reach a further degree, unless he first mount the previous degree. Therefore no one can receive the character of a subsequent Order unless he has first received the preceding Order.

On the contrary, If anything necessary for a sacrament be omitted in that sacrament, the sacrament must be repeated. But if one receive a subsequent Order, without receiving a preceding Order, he is not reordained, but he receives what was lacking, according to the canonical statutes (cap. *Tuæ literæ,* De clerico per salt. prom.). Therefore the preceding Order is not necessary for the following.

I answer that, It is not necessary for the higher Orders that one should have received the minor Orders, because their respective powers are distinct, and one, considered in its essentials, does not require another in the same subject. Hence even in the early Church some were ordained priests without having previously received the

lower Orders, and yet they could do all that the lower Orders could, because the lower power is comprised in the higher, even as sense in understanding, and dukedom in kingdom. Afterwards, however, it was decided by the legislation of the Church that no one should present himself to the higher Orders who had not previously humbled himself in the lower offices. And hence it is that according to the Canons (*loc. cit.*) those who are ordained without receiving a preceding Order are not reordained, but receive what was lacking to them of the preceding Orders.

Reply Obj. 1. Orders have more in common with one another as regards specific likeness, than Order has with Baptism. But as regards proportion of power to action, Baptism has more in common with Order, than one Order with another, because Baptism confers on man the passive power to receive Orders, whereas a lower Order does not give him the passive power to receive higher Orders.

Reply Obj. 2. Orders are not degrees combining in one action or in one movement, so that it be necessary to reach the last through the first; but they are like degrees consisting in things of different kinds, such as the degrees between man and angel, and it is not necessary that one who is an angel be first of all a man. Such also are the degrees between the head and all members of the body; nor is it necessary that that which is the head should be previously a foot; and thus it is in the case in point.

QUESTION XXXVI.

OF THE QUALITIES REQUIRED OF THOSE WHO RECEIVE THIS SACRAMENT.

(*In Five Articles.*)

WE must next consider the qualities required of those who receive the sacrament of Order. Under this head there are five points of inquiry: (1) Whether goodness of life is required of those who receive this sacrament? (2) Whether the knowledge of the whole of Sacred Writ is required? (3) Whether the degree of Orders is obtained by mere merit of life? (4) Whether he who raises the unworthy to Orders sins? (5) Whether one who is in sin can without committing a sin exercise the Order he has received?

FIRST ARTICLE.

WHETHER GOODNESS OF LIFE IS REQUIRED OF THOSE WHO RECEIVE ORDERS?

We proceed thus to the First Article :—

Objection 1. It would seem that goodness of life is not required of those who receive Orders. For by Orders a man is ordained to the dispensation of the sacraments. But the sacraments can be administered by good and wicked. Therefore goodness of life is not requisite.

Obj. 2. Further, The service of God in the sacraments is no greater than service offered to Him in the body. Now Our Lord did not cast aside the sinful and notorious woman from rendering Him a bodily service (Luke vii.). Therefore neither should the like be debarred from His service in the sacraments.

Obj. 3. Further, By every grace a remedy is given against sin. Now those who are in sin should not be refused a remedy that may avail them. Since then grace is given in the sacrament of Order, it would seem that this sacrament ought also to be conferred on sinners.

On the contrary, Whosoever of the seed of Aaron throughout their families hath a blemish, he shall not offer bread to his God neither shall he approach to minister to him* (Lev. xxi. 17, 18). Now *blemish signifies all kinds of vice* according to a gloss. Therefore he who is shackled by any vice should not be admitted to the ministry of Orders.

Further, Jerome commenting on the words of Tit. ii. 15, *Let no man despise thee,* says that *not only should bishops, priests, and deacons take very great care to be examples of speech and conduct to those over whom they are placed, but also the lower grades, and without exception all who serve the household of God, since it is most disastrous to the Church if the laity be better than the clergy.* Therefore holiness of life is requisite in all the Orders.

I answer that, As Dionysius says (*Eccl. Hier.* iii.), *even as the more subtle and clear essences, being filled by the outpouring of the solar radiance, like the sun enlighten other bodies with their brilliant light, so in all things pertaining to God a man must not dare to become a leader of others, unless in all his habits he be most deiform and godlike.* Wherefore, since in every Order a man is appointed to lead others in Divine things, he who being conscious of mortal sin presents himself for Orders is guilty of presumption and sins mortally. Consequently holiness of life is requisite for Orders, as a matter of precept, but not as essential to the sacrament; and if a wicked man be ordained, he receives the Order none the less, and yet with sin withal.

Reply Obj. 1. Just as the sinner dispenses sacraments validly so does he receive validly the sacrament of Orders, and as he dispenses unworthily, even so he receives unworthily.

Reply Obj. 2. The service in point consisted entirely in the

* Vulg.,—*Say to Aaron : Whosoever of thy seed,* etc.

exercise of bodily homage, which even sinners can offer lawfully. It is different with the spiritual service to which the ordained are appointed, because thereby they are made to stand between God and the people. Wherefore they should shine with a good conscience before God, and with a good name before men.

Reply Obj. 3. Certain medicines require a robust constitution, else it is mortally dangerous to take them; others can be given to the weakly. So too in spiritual things certain sacraments are ordained as remedies for sin, and the like are to be given to sinners, as Baptism and Penance, while others, which confer the perfection of grace, require a man made strong by grace.

SECOND ARTICLE.

WHETHER KNOWLEDGE OF ALL HOLY WRIT IS REQUIRED?

We proceed thus to the Second Article:—

Objection 1. It would seem that knowledge of all Holy Writ is required. For one from whose lips we seek the law, should have knowledge of the law. Now the laity seek the law at the mouth of the priest (Malach. ii. 7). Therefore he should have knowledge of the whole law.

Obj. 2. Further, *Being always ready to satisfy everyone that asketh you a reason of that faith* and hope which is in you.* Now to give a reason for things pertaining to faith and hope belongs to those who have perfect knowledge of Holy Writ. Therefore the like knowledge should be possessed by those who are placed in Orders, and to whom the aforesaid words are addressed.

Obj. 3. Further, No one is competent to read what he understands not, since to *read without intelligence is negligence,*† as Cato declares (*Rudiment.*). Now it belongs to the reader (which is the lower Order) to read the Old Testament, as stated in the text (iv., *Sent.* D. 24). There-

* Vulg.,—*Of that hope which is in you.* S. Thomas apparently took his reading from Bede.

† *Legere et non intelligere est negligere.* The play on the words is more evident in the Latin.

fore he should understand the whole of the Old Testament; and much more those in the higher Orders.

On the contrary, Many are raised to the priesthood even who know nothing at all of these things, even in many religious Orders. Therefore apparently this knowledge is not required.

Further, We read in the *Lives of the Fathers* that some who were mere monks were raised to the priesthood, being of a most holy life. Therefore the aforesaid knowledge is not required in those to be ordained.

I answer that, For any human act to be rightly ordered there must needs be the direction of reason. Wherefore in order that a man exercise the office of an Order, it is necessary for him to have as much knowledge as suffices for his direction in the act of that Order. And consequently one who is to be raised to Orders is required to have that knowledge, and to be instructed in Sacred Scripture, not the whole, but more or less, according as his office is of a greater or lesser extent—to wit, that those who are placed over others, and receive the cure of souls, know things pertaining to the doctrine of faith and morals, and that others know whatever concerns the exercise of their Order.

Reply Obj. 1. A priest exercises a twofold action: the one, which is principal, over the true body of Christ; the other, which is secondary, over the mystical body of Christ. The second act depends on the first, but not conversely. Wherefore some are raised to the priesthood, to whom the first act alone is deputed, for instance those religious who are not empowered with the cure of souls. The law is not sought at the mouth of these, they are required only for the celebration of the sacraments; and consequently it is enough for them to have such knowledge as enables them to observe rightly those things that regard the celebration of the sacrament. Others are raised to exercise the other act which is over the mystical body of Christ, and it is at the mouth of these that the people seek the law; wherefore they ought to possess knowledge of the law, not indeed to know

all the difficult points of the law (for in these they should have recourse to their superiors), but to know what the people have to believe and fulfil in the law. To the higher priests, namely the bishops, it belongs to know even those points of the law which may offer some difficulty, and to know them the more perfectly according as they are in a higher position.

Reply Obj. 2. The reason that we have to give for our faith and hope does not denote one that suffices to prove matters of faith and hope, since they are both of things invisible; it means that we should be able to give general proofs of the probability of both, and for this there is not much need of great knowledge.

Reply Obj. 3. The reader has not to explain Holy Writ to the people (for this belongs to the higher Orders), but merely to voice the words. Therefore he is not required to have so much knowledge as to understand Holy Writ, but only to know how to pronounce it correctly. And since such knowledge is obtained easily and from many persons, it may be supposed with probability that the ordained will acquire that knowledge even if he have it not already, especially if it appear that he is on the road to acquire it.

THIRD ARTICLE.

WHETHER A MAN OBTAINS THE DEGREES OF ORDER BY THE MERIT OF ONE'S LIFE?

We proceed thus to the Third Article:—

Objection 1. It would seem that a man obtains the degrees of Order by the mere merit of his life. For, according to Chrysostom,* *not every priest is a saint, but every saint is a priest.* Now a man becomes a saint by the merit of his life. Consequently he thereby also becomes a priest, and *a fortiori* has he the other Orders.

Obj. 2. Further, In natural things, men obtain a higher degree from the very fact that they are near God, and have

* *Hom.* xliii. in the *Opus Imperfectum*, wrongly ascribed to S. John Chrysostom.

a greater share of His favours, as Dionysius says (*Eccl. Hier.* iv.). Now it is by merit of holiness and knowledge that a man approaches nearer to God and receives more of His favours. Therefore by this alone he is raised to the degree of Orders.

On the contrary, Holiness once possessed can be lost. But when once a man is ordained he never loses his Order. Therefore Order does not consist in the mere merit of holiness.

I answer that, A cause should be proportionate to its effect. And consequently as in Christ, from Whom grace comes down on all men, there must needs be fulness of grace; so in the ministers of the Church, to whom it belongs, not to give grace, but to give the sacraments of grace, the degree of Order does not result from their having grace, but from their participating in a sacrament of grace.

Reply Obj. 1. Chrysostom is speaking of the priest in reference to the reason for which he is so called, the word *sacerdos* signifying dispenser of holy things (*sacra dans*): for in this sense every righteous man, in so far as he assists others by the sacraments, may be called a priest. But he is not speaking according to the actual meaning of the words; for this word *sacerdos* (priest) is employed to signify one who gives sacred things by dispensing the sacraments.

Reply Obj. 2. Natural things acquire a degree of superiority over others, from the fact that they are able to act on them by virtue of their form; wherefore from the very fact that they have a higher form, they obtain a higher degree. But the ministers of the Church are placed over others, not to confer anything on them by virtue of their own holiness (for this belongs to God alone), but as ministers, and as instruments so to say, of the outpouring from the Head to the members. Hence the comparison fails as regards the dignity of Order, although it applies as to congruity.

FOURTH ARTICLE.

WHETHER HE WHO RAISES THE UNWORTHY TO ORDERS COMMITS A SIN?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that he who raises the unworthy to Orders commits no sin. For a bishop needs assistants appointed to the lesser offices. But he would be unable to find them in sufficient number, if he were to require of them such qualifications as the saints enumerate. Therefore if he raise some who are not qualified, he would seem to be excusable.

Obj. 2. Further, The Church needs not only ministers for the dispensation of things spiritual, but also for the supervision of temporalities. But sometimes men without knowledge or holiness of life may be useful for the conduct of temporal affairs, either because of their worldly power, or on account of their natural industry. Therefore seemingly the like can be promoted without sin.

Obj. 3. Further, Everyone is bound to avoid sin, as far as he can. If therefore a bishop sins in promoting the unworthy, he is bound to take the utmost pains to know whether those who present themselves for Orders be worthy, by making a careful inquiry about their morals and knowledge; and yet seemingly this is not done anywhere.

On the contrary, It is worse to raise the wicked to the sacred ministry, than not to correct those who are raised already. But Heli sinned mortally by not correcting his sons for their wickedness; wherefore *he fell backwards . . . and died* (1 Kings iv. 18). Therefore he who promotes the unworthy does not escape sin.

Further, Spiritual things must be set before temporal things in the Church. Now a man would commit a mortal sin were he knowingly to endanger the temporalities of the Church. Much more therefore is it a mortal sin to endanger spiritual things. But whoever promotes the unworthy endangers spiritual things, since according to Gregory (*Hom.* xii. *in Ev.*) *if a man's life is contemptible, his preaching*

is liable to be despised; and for the same reason all the spiritual things that he dispenses. Therefore he who promotes the unworthy sins mortally.

I answer that, Our Lord describes the faithful servant whom He has set *over His household to give them their measure of wheat.* Hence he is guilty of unfaithfulness who gives any man Divine things above his measure; and whoso promotes the unworthy does this. Wherefore he commits a mortal crime, as being unfaithful to his sovereign Lord, especially since this is detrimental to the Church and to the Divine honour which is promoted by good ministers. For a man would be unfaithful to his earthly lord were he to place unworthy subjects in his offices.

Reply Obj. 1. God never so abandons His Church that apt ministers are not to be found sufficient for the needs of the people; if the worthy be promoted and the unworthy set aside. And though it were impossible to find as many ministers as there are now, it were better to have few good ministers than many bad ones, as the blessed Clement declares in his second epistle to James the brother of the Lord.

Reply Obj. 2. Temporal things are not to be sought but for the sake of spiritual things. Wherefore all temporal advantage should count for nothing, and all gain be despised for the advancement of spiritual good.

Reply Obj. 3. It is at least required that the ordainer know that nothing contrary to holiness is in the candidate for ordination. But besides this he is required to take the greatest care, in proportion to the Order or office to be enjoined, so as to be certain of the qualifications of those to be promoted, at least from the testification of others. This is the meaning of the Apostle when he says (1 Tim. v. 22): *Impose not hands lightly on any man.*

FIFTH ARTICLE.

WHETHER A MAN WHO IS IN SIN CAN WITHOUT SIN EXERCISE THE ORDER HE HAS RECEIVED?*

We proceed thus to the Fifth Article :—

Objection 1. It would seem that one who is in sin can without sin exercise the Order he has received. For since, by virtue of his office, he is bound to exercise his Order, he sins if he fails to do so. If therefore he sins by exercising it, he cannot avoid sin: which is inadmissible.

Obj. 2. Further, A dispensation is a relaxation of the law. Therefore although by rights it would be unlawful for him to exercise the Order he has received, it would be lawful for him to do so by dispensation.

Obj. 3. Further, Whoever co-operates with another in a mortal sin, sins mortally. If therefore a sinner sins mortally by exercising his Order, he who receives or demands any Divine thing from him also sins mortally: and this seems absurd.

Obj. 4. Further, If he sins by exercising his Order, it follows that every act of his Order that he performs is a mortal sin; and consequently since many acts concur in the one exercise of his Order, it would seem that he commits many mortal sins: which seems very hard.

On the contrary, Dionysius says (*Ep. ad Demophil.*): *It seems presumptuous for such a man, one to wit who is not enlightened, to lay hands on priestly things; he is not afraid nor ashamed, all unworthy that he is, to take part in Divine things, with the thought that God does not see what he sees in himself; he thinks, by false pretence, to cheat Him Whom he falsely calls his Father; he dares to utter in the person of Christ, words polluted by his infamy, I will not call them prayers, over the Divine symbols.* Therefore a priest is a blasphemer and a cheat if he exercises his Order unworthily, and thus he sins mortally: and in like manner any other person in Orders.

Further, Holiness of life is required in one who receives

* Cf. P. III., Q. LXIV., A. 6.

an Order, that he may be qualified to exercise it. Now a man sins mortally if he present himself for Orders in mortal sin. Much more therefore does he sin mortally whenever he exercises his Order.

I answer that, The law prescribes (Deut. xvi. 20) that *man should follow justly after that which is just.* Wherefore whoever fulfils unworthily the duties of his Order follows unjustly after that which is just, and acts contrary to a precept of the law, and thereby sins mortally. Now anyone who exercises a sacred office in mortal sin, without doubt does so unworthily. Hence it is clear that he sins mortally.

Reply Obj. 1. He is not perplexed as though he were in the necessity of sinning; for he can renounce his sin, or resign his office whereby he was bound to the exercise of his Order.

Reply Obj. 2. The natural law allows of no dispensation; and it is of natural law that man handle holy things holily. Therefore no one can dispense from this.

Reply Obj. 3. So long as a minister of the Church who is in mortal sin is recognized by the Church, his subject must receive the sacraments from him, since this is the purpose for which he is bound to him. Nevertheless, outside the case of necessity, it would not be safe to induce him to an execution of his Order, as long as he is conscious of being in mortal sin, which conscience, however, he can lay aside since a man is repaired in an instant by Divine grace.

Reply Obj. 4. When any man performs an action as a minister of the Church while in a state of mortal sin, he sins mortally, and as often as he performs that action, since, as Dionysius says (*Eccl. Hier.* i.), *it is wrong for the unclean even to touch the symbols,* i.e. the sacramental signs. Hence when they touch sacred things in the exercise of their office they sin mortally. It would be otherwise if they were to touch some sacred thing or perform some sacred duty in a case of necessity, when it would be allowable even to a layman, for instance if they were to baptize in a case of urgency, or gather up the Lord's body should it be cast to the ground.

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QUESTION XXXVII.

OF THE DISTINCTION OF ORDERS, OF THEIR ACTS, AND THE IMPRINTING OF THE CHARACTER.

(*In Five Articles.*)

In the next place we must consider the distinction of the Orders and their acts, and the imprinting of the character. Under this head there are five points of inquiry: (1) Whether Order should be divided into several kinds? (2) How many are there? (3) Whether they ought to be divided into those that are sacred and those that are not? (4) Whether the acts of the Orders are rightly assigned in the text? (5) When are the characters of the Orders imprinted?

First Article.

WHETHER WE OUGHT TO DISTINGUISH SEVERAL ORDERS?

We proceed thus to the First Article:—

Objection 1. It would seem that we ought not to distinguish several Orders. For the greater a power is, the less is it multiplied. Now this sacrament ranks above the others in so far as it places its recipients in a degree above other persons. Since then the other sacraments are not divided into several of which the whole is predicated, neither ought this sacrament to be divided into several Orders.

Obj. 2. Further, If it be divided, the parts of the division are either integral or subjective. But they are not integral, for then the whole would not be predicated of them. Therefore it is a division into subjective parts. Now subjective parts can have the remote genus predicated of them in the plural in the same way as the proximate genus; thus

man and ass are several animals, and are several animated bodies. Therefore also priesthood and diaconate, as they are several Orders, even so are several sacraments, since sacrament is the genus, so to speak, in respect of Orders.

Obj. 3. Further, According to the Philosopher (*Ethic.* viii. 10) the form of authority in which one alone governs is a better government of the common weal than aristocracy, where different persons occupy different offices. But the government of the Church should be the best of all. Therefore in the Church there should be no distinction of Orders for different acts, but the whole power should reside in one person; and consequently there ought to be only one Order.

On the contrary, The Church is Christ's mystical body, like to our natural body, according to the Apostle (Rom. xii. 5; 1 Cor. xii. 12, 27; Eph. i. 22, 23; Col. i. 24). Now in the natural body there are various offices of the members. Therefore in the Church also there should be various Orders.

Further, The ministry of the New Testament is superior to that of the Old Testament (2 Cor. iii.). Now in the Old Testament not only the priests, but also their ministers the Levites were consecrated. Therefore likewise in the New Testament not only the priests but also their ministers should be consecrated by the sacrament of Order; and consequently there ought to be several Orders.

I answer that, Multiplicity of Orders was introduced into the Church for three reasons. First to show forth the wisdom of God, which is reflected in the orderly distinction of things both natural and spiritual. This is signified in the statement of 3 Kings. x. 4, 5 that *when the queen of Saba saw . . . the order of* Solomon's *servants . . . she had no longer any spirit in her,* for she was breathless from admiration of his wisdom. Secondly, in order to succour human weakness, because it would be impossible for one man, without his being heavily burdened, to fulfil all things pertaining to the Divine mysteries; and so various orders are severally appointed to the various offices; and this is shown by the Lord giving Moses seventy ancients to assist him. Thirdly,

that men may be given a broader way for advancing (to perfection), seeing that the various duties are divided among many men, so that all become the co-operators of God; than which nothing is more God-like, as Dionysius says (*Eccles. Hier.* iii.).

Reply Obj. 1. The other sacraments are given that certain effects may be received; but this sacrament is given chiefly that certain acts may be performed. Hence it behoves the sacrament of Order to be differentiated according to the diversity of acts, even as powers are differentiated by their acts.

Reply Obj. 2. The division of Order is not that of an integral whole into its parts, nor of a universal whole, but of a potential whole, the nature of which is that the notion of the whole is found to be complete in one part, but in the others by some participation thereof. Thus it is here: for the entire fulness of the sacrament is in one Order, namely the priesthood, while in the other sacraments there is a participation of Order. And this is signified by the Lord saying (Num. xi. 17): *I will take of thy spirit and give to them, that they may bear with thee the burden of the people.* Therefore all the Orders are one sacrament.

Reply Obj. 3. In a kingdom, although the entire fulness of power resides in the king, this does not exclude the ministers having a power which is a participation of the kingly power. It is the same in Order. In the aristocratic form of government, on the contrary, the fulness of power resides in no one, but in all.

Second Article.

whether there are seven orders?

We proceed thus to the Second Article:—

Objection 1. It would seem that there are not seven Orders. For the Orders of the Church are directed to the hierarchical acts. But there are only three hierarchical acts, namely *to cleanse, to enlighten, and to perfect,* for which reason Dionysius distinguishes three Orders (*Eccles. Hier.* v.). Therefore there are not seven.

Obj. 2. Further, All the sacraments derive their efficacy and authenticity from their institution by Christ, or at least by His apostles. But no mention except of priests and deacons is made in the teaching of Christ and His apostles. Therefore seemingly there are no other Orders.

Obj. 3. Further, By the sacrament of Order a man is appointed to dispense the other sacraments. But there are only six other sacraments. Therefore there should be only six Orders.

Obj. 4. *On the other hand,* It would seem that there ought to be more. For the higher a power is, the less is it subject to multiplication. Now the hierarchical power is in the angels in a higher way than in us, as Dionysius says (*Eccles. Hier.* i.). Since then there are nine orders in the angelic hierarchy, there should be as many, or more, in the Church.

Obj. 5. Further, The prophecy of the Psalms is the most noble of all the prophecies. Now there is one Order, namely of readers, for reading the other prophecies in the Church. Therefore there ought to be another Order for reading the Psalms, especially since (Decret., Dist. xxi., cap. *Cleros*) the psalmist is reckoned as the second Order after the doorkeeper.

I answer that, Some show the sufficiency of the Orders from their correspondence with the gratuitous graces which are indicated 1 Cor. xii. For they say that the *word of wisdom* belongs to the bishop, because he is the ordainer of others, which pertains to wisdom; the *word of knowledge* to the priest, for he ought to have the key of knowledge; *faith* to the deacon, for he preaches the Gospel; the *working of miracles* to the subdeacon, who sets himself to do deeds of perfection by the vow of continency; *interpretation of speeches* to the acolyte, this being signified by the light which he bears; the *grace of healing* to the exorcist; *diverse kinds of tongues* to the psalmist; *prophecy* to the reader; and the *discerning of spirits* to the doorkeeper, for he excludes some and admits others. But this is of no account, for the gratuitous graces are not given, as the Orders are, to one same man. For it is written (1 Cor. xii. 4): *There*

are distributions (Douay,—*diversities*) *of graces.* Moreover the episcopate* and the office of psalmist are included, which are not Orders. Wherefore others account for the Orders by likening them to the heavenly hierarchy, where the orders are distinguished in reference to cleansing, enlightening, and perfecting. Thus they say that the doorkeeper cleanses outwardly, by separating even in the body the good from the wicked; that the acolyte cleanses inwardly, because by the light which he bears, he signifies that he dispels inward darkness; and that the exorcist cleanses both ways, for he casts out the devil who disturbs a man both ways. But enlightening, which is effected by teaching, is done by readers as regards prophetic doctrine; by subdeacons as to apostolic doctrine; and by deacons, as to the gospel doctrine; while ordinary perfection, such as the perfection of Penance, Baptism, and so forth, is the work of the priest; excellent perfection, such as the consecration of priests and virgins, is the work of the bishop; while the most excellent perfection is the work of the Sovereign Pontiff in whom resides the fulness of authority. But this again is of no account; both because the orders of the heavenly hierarchy are not distinguished by the aforesaid hierarchical actions, since each of them is applicable to every order; and because, according to Dionysius (*Eccles. Hier.* v.), perfecting belongs to the bishops alone, enlightening to the priests, and cleansing to all the ministers.—Wherefore others suit the Orders to the seven gifts, so that the priesthood corresponds to the gift of wisdom, which feeds us with the bread of life and understanding, even as the priest refreshes us with the heavenly bread; fear to the doorkeeper, for he separates us from the wicked; and thus the intermediate Orders to the intermediate gifts. But this again is of no account, since the sevenfold grace is given in each one of the Orders. Consequently we must answer differently by saying that the sacrament of Order is directed to the sacrament of the Eucharist, which is the sacrament of sacraments, as Dionysius says (*Eccles. Hier.*

* Cf. Q. XL., A. 5.

iii.). For just as temple, altar, vessels, and vestments need to be consecrated, so do the ministers who are ordained for the Eucharist; and this consecration is the sacrament of Order. Hence the distinction of Orders is derived from their relation to the Eucharist. For the power of Order is directed either to the consecration of the Eucharist itself, or to some ministry in connexion with this sacrament of the Eucharist. If in the former way, then it is the Order of priests; hence when they are ordained, they receive the chalice with wine, and the paten with the bread, because they are receiving the power to consecrate the body and blood of Christ. The co-operation of the ministers is directed either to the sacrament itself, or to the recipients. If the former, this happens in three ways. For in the first place there is the ministry whereby the minister co-operates with the priest in the sacrament itself, by dispensing, but not by consecrating, for this is done by the priest alone; and this belongs to the deacon. Hence in the text (iv. *Sent.* D. 24) it is said that it belongs to the deacon to minister to the priests in whatever is done in Christ's sacraments, wherefore he dispenses Christ's blood. Secondly, there is the ministry directed to the disposal of the sacramental matter in the sacred vessels of the sacrament; and this belongs to subdeacons. Wherefore it is stated in the text (*ibid.*) that they carry the vessels of our Lord's body and blood, and place the oblation on the altar; hence, when they are ordained, they receive the chalice, empty however, from the bishop's hands. Thirdly, there is the ministry directed to the proffering of the sacramental matter, and this belongs to the acolyte. For he, as stated in the text (*ibid.*), prepares the cruet with wine and water; wherefore he receives an empty cruet. The ministry directed to the preparation of the recipients can be exercised only over the unclean, since those who are clean are already apt for receiving the sacraments. Now the unclean are of three kinds, according to Dionysius (*ibid.*). For some are absolute unbelievers and unwilling to believe; and these must be altogether debarred from beholding Divine things and from

the assembly of the faithful; this belongs to the door-keepers. Some, however, are willing to believe, but are not as yet instructed, namely catechumens, and to the instruction of such persons the Order of readers is directed, who are therefore entrusted with the reading of the first rudiments of the doctrine of faith, namely the Old Testament. But some are believers and instructed, yet lie under an impediment through the power of the devil, namely those who are possessed; and to this ministry the Order of exorcists is directed. Thus the reason and number of the degrees of Orders is made clear.

Reply Obj. 1. Dionysius is speaking of the Orders not as sacraments, but as directed to hierarchical actions. Wherefore he distinguishes three Orders corresponding to those actions. The first of these Orders, namely the bishop, has all three actions; the second, namely the priest, has two; while the third has one, namely to cleanse; this is the deacon who is called a minister: and under this last all the lower Orders are comprised. But the Orders derive their sacramental nature from their relation to the greatest of the sacraments, and consequently the number of Orders depends on this.

Reply Obj. 2. In the early Church, on account of the fewness of ministers, all the lower ministries were entrusted to the deacons, as Dionysius says (*Eccles. Hier.* iii.), where he says: *Some of the ministers stand at the closed door of the Church, others are otherwise occupied in the exercise of their own Order; others place the sacred bread and the chalice of benediction on the altar and offer them to the priests.* Nevertheless all the power to do all these things was included in the one power of the deacon, though implicitly. But afterwards the Divine worship developed, and the Church committed expressly to several persons that which had hitherto been committed implicitly in one Order. This is what the Master means, when He says in the text (*ibid.*) that the Church instituted other Orders.

Reply Obj. 3. The Orders are directed to the sacrament of the Eucharist chiefly, and to the other sacraments con-

sequently, for even the other sacraments flow from that which is contained in that sacrament. Hence it does not follow that the Orders ought to be distinguished according to the sacraments.

Reply Obj. 4. The angels differ specifically:* for this reason it is possible for them to have various modes of receiving Divine things, and hence also they are divided into various hierarchies. But in men there is only one hierarchy, because they have only one mode of receiving Divine things, which results from the human species, namely through the images of sensible objects. Consequently the distinction of Orders in the angels cannot bear any relation to a sacrament as it is with us, but only a relation to the hierarchical actions which among them each Order exercises on the Orders below. In this respect our Orders correspond to theirs; since in our hierarchy there are three Orders, distinguished according to the three hierarchical actions, even as in each angelic hierarchy.

Reply Obj. 5. The office of psalmist is not an Order, but an office annexed to an Order. For the psalmist is also styled precentor because the psalms are recited with chant. Now precentor is not the name of a special Order, both because it belongs to the whole choir to sing, and because he has no special relation to the sacrament of the Eucharist. Since, however, it is a particular office, it is sometimes reckoned among the Orders, taking these in a broad sense.

Third Article.

Whether the Order should be divided into those that are sacred and those that are not?

We proceed thus to the Third Article :—

Objection 1. It would seem that the Orders ought not to be divided into those that are sacred and those that are not. For all the Orders are sacraments, and all the sacraments are sacred. Therefore all the Orders are sacred.

Obj. 2. Further, By the Orders of the Church a man is

* Cf. P. I., Q. L., A. 4.

not appointed to any other than Divine offices. Now all these are sacred. Therefore all the Orders also are sacred.

On the contrary, The sacred Orders are an impediment to the contracting of marriage and annul the marriage that is already contracted. But the four lower Orders neither impede the contracting nor annul the contract. Therefore these are not sacred Orders.

I answer that, An Order is said to be sacred in two ways. First, in itself, and thus every Order is sacred, since it is a sacrament. Secondly, by reason of the matter about which it exercises an act, and thus an Order is called sacred, if it exercises an act about some consecrated thing. In this sense there are only three sacred Orders, namely the priesthood and diaconate, which exercise an act about the consecrated body and blood of Christ, and the subdiaconate, which exercises an act about the consecrated vessels. Wherefore continency is enjoined them, that they who handle holy things may themselves be holy and clean. This suffices for the *Replies* to the *Objections*.

Fourth Article.

whether the acts of the orders are rightly assigned in the text?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that the acts of the Orders are not rightly assigned in the text (iv. *Sent.* D. 24). Because a person is prepared by absolution to receive Christ's body. Now the preparation of the recipients of a sacrament belongs to the lower Orders. Therefore absolution from sins is unfittingly reckoned among the acts of a priest.

Obj. 2. Further, Man is made like to God immediately in Baptism, by receiving the character which causes this likeness. But prayer and the offering of oblations are acts directed immediately to God. Therefore every baptized person can perform these acts, and not priests alone.

Obj. 3. Further, Different Orders have different acts.

But it belongs to the subdeacon to place the oblations on the altar, and to read the epistle; and subdeacons carry the Cross before the Pope. Therefore these acts should not be assigned to the deacon.

Obj. 4. Further, The same truth is contained in the Old and in the New Testament. But it belongs to the readers to read the Old Testament. Therefore it should belong to them likewise, and not to deacons, to read the New Testament.

Obj. 5. Further, The apostles preached naught else but the gospel of Christ (Rom. i. 15). But the teaching of the apostles is entrusted to subdeacons to be read by them. Therefore the Gospel teaching should be also.

Obj. 6. Further, According to Dionysius (*Eccles. Hier.* v.) that which belongs to a higher Order should not be applicable to a lower Order. But it is an act of subdeacons to minister with the cruets. Therefore it should not be assigned to acolytes.

Obj. 7. Further, Spiritual actions should rank above bodily actions. But the acolyte's act is merely corporeal. Therefore the exorcist has not the spiritual act of casting out devils, since he is of inferior rank.

Obj. 8. Further, Things that have most in common should be placed beside one another. Now the reading of the Old Testament must needs have most in common with the reading of the New Testament, which latter belongs to the higher ministers. Therefore the reading of the Old Testament should be reckoned the act, not of the reader, but rather of the acolyte; especially since the bodily light which the acolytes carry signifies the light of spiritual doctrine.

Obj. 9. Further, In every act of a special Order, there should be some special power, which the person ordained has to the exclusion of other persons. But in opening and shutting doors the doorkeeper has no special power that other men have not. Therefore this should not be reckoned their act.

I answer that, Since the consecration conferred in the

sacrament of Orders is directed to the sacrament of the Eucharist, as stated above (A. 2), the principal act of each Order is that whereby it is most nearly directed to the sacrament of the Eucharist. In this respect, too, one Order ranks above another, in so far as one act is more nearly directed to that same sacrament. But because many things are directed to the Eucharist, as being the most exalted of the sacraments, it follows not unfittingly that one Order has many acts besides its principal act, and all the more, as it ranks higher, since a power extends to the more things, the higher it is.

Reply Obj. 1. The preparation of the recipients of a sacrament is twofold. One is remote and is effected by the ministers: another is proximate, whereby they are rendered apt at once for receiving the sacraments. This latter belongs to priests, since even in natural things matter receives from one and the same agent both the ultimate disposition to the form, and the form itself. And since a person acquires the proximate disposition to the Eucharist by being cleansed from sin, it follows that the priest is the proper minister of all those sacraments which are chiefly instituted for the cleansing of sins, namely Baptism, Penance, and Extreme Unction.

Reply Obj. 2. Acts are directed immediately to God in two ways; in one way on the part of one person only, for instance the prayers of individuals, vows, and so forth: such acts befit any baptized person. In another way on the part of the whole Church, and thus the priest alone exercises acts immediately directed to God; because to impersonate the whole Church belongs to him alone who consecrates the Eucharist, which is the sacrament of the universal Church.

Reply Obj. 3. The offerings made by the people are offered through the priest. Hence a twofold ministry is necessary with regard to offerings. One on the part of the people: and this belongs to the subdeacon who receives the offerings from the people and places them on the altar or offers them to the deacon; the other is on the part of the priest,

and belongs to the deacon, who hands the offerings to the priest. This is the principal act of both Orders, and for this reason the deacon's Order is the higher. But to read the epistle does not belong to a deacon, except as the acts of lower Orders are ascribed to the higher; and in like manner to carry the cross. Moreover, this depends on the customs of Churches, because in secondary acts it is not unfitting for customs to vary.

Reply Obj. 4. Doctrine is a remote preparation for the reception of a sacrament; wherefore the announcement of doctrine is entrusted to the ministers. But the doctrine of the Old Testament is more remote than that of the New Testament, since it contains no instruction about this sacrament except in figures. Hence announcing of the New Testament is entrusted to the higher ministers, and that of the Old Testament to the lower ministers. Moreover the doctrine of the New Testament is more perfect as delivered by our Lord Himself, than as made known by His apostles. Wherefore the Gospel is committed to deacons, and the Epistle to subdeacons.

This suffices for the *Reply* to the *Fifth Objection.*

Reply Obj. 6. Acolytes exercise an act over the cruet alone, and not over the contents of the cruet; whereas the subdeacon exercises an act over the contents of the cruet, because he handles the water and wine to the end that they be put into the chalice,* and again he pours the water over the hands of the priest; and the deacon, like the subdeacon, exercises an act over the chalice only, not over its contents, whereas the priest exercises an act over the contents. Wherefore as the subdeacon at his ordination receives an empty chalice, while the priest receives a full chalice, so the acolyte receives an empty cruet, but the subdeacon a full one. Thus there is a certain connexion among the Orders.

Reply Obj. 7. The bodily acts of the acolyte are more

* The wording of S. Thomas is sufficiently vague to refer either to the Roman rite, where the priest pours the wine and water into the chalice, or to the Dominican rite, where this is done by the subdeacon.

intimately connected with the act of Holy Orders than the act of the exorcist, although the latter is, in a fashion, spiritual. For the acolytes exercise a ministry over the vessels in which the sacramental matter is contained, as regards the wine, which needs a vessel to hold it on account of its humidity. Hence of all the minor Orders the Order of acolytes is the highest.

Reply Obj. 8. The act of the acolyte is more closely connected with the principal acts of the higher ministers, than the acts of the other minor Orders, as is self-evident; and again as regards the secondary acts whereby they prepare the people by doctrine. For the acolyte by bearing a light represents the doctrine of the New Testament in a visible manner, while the reader by his recital represents it differently, wherefore the acolyte is of higher rank. It is the same with the exorcist, for as the act of the reader is compared with the secondary act of the deacon and subdeacon, so is the act of the exorcist compared with the secondary act of the priest, namely to bind and to loose, by which man is wholly freed from the slavery of the devil. This, too, shows the degrees of Order to be most orderly; since only the three higher Orders co-operate with the priest in his principal act which is to consecrate the body of Christ, while both the higher and lower Orders co-operate with him in his secondary act, which is to loose and bind.

Reply Obj. 9. Some say that in receiving the Order the doorkeeper is given a Divine power to debar others from entering the Church, even as Christ had, when he cast out the sellers from the Temple. But this belongs to a gratuitous grace rather than to a sacramental grace. Wherefore we should reply that he receives the power to do this by virtue of his office, although others may do so, but not officially. It is the case in all the acts of the minor Orders, that they can be lawfully exercised by others, even though these have no office to that effect: just as Mass may be said in an unconsecrated building, although the consecration of a church is directed to the purpose that Mass be said there.

Fifth Article.

Whether the character is imprinted on a priest when the chalice is handed to him?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that the character is not imprinted on the priest at the moment when the chalice is handed to him. For the consecration of a priest is done by anointing as in Confirmation. Now in Confirmation the character is imprinted at the moment of anointing; and therefore in the priesthood also and not at the handing of the chalice.

Obj. 2. Further, Our Lord gave His disciples the priestly power when He said (Jo. xx. 22, 23): *Receive ye the Holy Ghost: whose sins you shall forgive,* etc. Now the Holy Ghost is given by the imposition of hands. Therefore the character of Order is given at the moment of the imposing of hands.

Obj. 3. Further, As the ministers are consecrated, even so are the ministers' vestments. Now the blessing alone consecrates the vestments. Therefore the consecration of the priest also is effected by the mere blessing of the bishop.

Obj. 4. Further, As a chalice is handed to the priest, even so is the priestly vestment. Therefore if a character is imprinted at the giving of the chalice, so likewise is there at the giving of the chasuble, and thus a priest would have two characters: but this is false.

Obj. 5. Further, The deacon's Order is more closely allied to the priest's Order than is the subdeacon's. But if a character is imprinted on the priest at the moment of the handing of the chalice, the subdeacon would be more closely allied to the priest than the deacon; because the subdeacon receives the character at the handing of the chalice and not the deacon. Therefore the priestly character is not imprinted at the handing of the chalice.

Obj. 6. Further, The Order of acolytes approaches nearer to the priestly act by exercising an act over the cruet than by exercising an act over the torch. Yet the character is

imprinted on the acolytes when they receive the torch rather than when they receive the cruet, because the name of acolyte signifies candle-bearer. Therefore the character is not imprinted on the priest when he receives the chalice.

On the contrary, The principal act of the priest's Order is to consecrate Christ's body. Now he receives the power to this effect at the handing of the chalice. Therefore the character is imprinted on him then.

I answer that, As stated above (A. 4, *ad* 1), to cause the form and to give the matter its proximate preparation for the form belong to the same agent. Wherefore the bishop in conferring Orders does two things; for he prepares the candidates for the reception of Orders, and delivers to them the power of Order. He prepares them both by instructing them in their respective offices, and by doing something to them, so that they may be adapted to receive the power. This preparation consists of three things, namely blessing, imposition of hands, and anointing. By the blessing they are enlisted in the Divine service, wherefore the blessing is given to all. By the imposition of hands the fulness of grace is given, whereby they are qualified for exalted duties, wherefore only deacons and priests receive the imposition of hands, because they are competent to dispense the sacraments, although the latter as principal dispensers, the former as ministers. But by the anointing they are consecrated for the purpose of handling the sacrament, wherefore the anointing is done to the priests alone who touch the body of Christ with their own hands; even as a chalice is anointed because it holds the blood, and the paten because it holds the body.

The conferring of power is effected by giving them something pertaining to their proper act. And since the principal act of a priest is to consecrate the body and blood of Christ, the priestly character is imprinted at the very giving of the chalice under the prescribed form of words.

Reply Obj. 1. In Confirmation there is not given the office of exercising an act on an exterior matter, wherefore the character is not imprinted in that sacrament at the handing

of some particular thing, but at the mere imposition of hands and anointing. But it is otherwise in the priestly Order, and consequently the comparison fails.

Reply Obj. 2. Our Lord gave His disciples the priestly power, as regards the principal act, before His Passion at the supper when He said: *Take ye and eat* (Matth. xxvi. 26), wherefore He added: *Do this for a commemoration of Me* (Luke xxii. 19). After the resurrection, however, He gave them the priestly power, as to its secondary act, which is to bind and loose.

Reply Obj. 3. Vestments require no other consecration except to be set aside for the Divine worship, wherefore the blessing suffices for their consecration. But it is different with those who are ordained, as explained above.

Reply Obj. 4. The priestly vestment signifies, not the power given to the priest, but the aptitude required of him for exercising the act of that power. Wherefore a character is imprinted neither on the priest nor on anyone else at the giving of a vestment.

Reply Obj. 5. The deacon's power is midway between the subdeacon's and the priest's. For the priest exercises a power directly on Christ's body, the subdeacon on the vessels only, and the deacon on Christ's body contained in a vessel. Hence it is not for him to touch Christ's body, but to carry the body on the paten, and to dispense the blood with the chalice. Consequently his power, as to the principal act, could not be expressed, either by the giving of the vessel only, or by the giving of the matter; and his power is expressed as to the secondary act alone, by his receiving the book of the Gospels, and this power is understood to contain the other; wherefore the character is impressed at the handing of the book.

Reply Obj. 6. The act of the acolyte whereby he serves with the cruet ranks before his act of carrying the torch; although he takes his name from the secondary act, because it is better known and more proper to him. Hence the acolyte receives the character when he is given the cruet, by virtue of the words uttered by the bishop.

QUESTION XXXVIII.

OF THOSE WHO CONFER THIS SACRAMENT.

(*In Two Articles.*)

WE must now consider those who confer this sacrament. Under this head there are two points of inquiry: (1) Whether a bishop alone can confer this sacrament? (2) Whether a heretic or any other person cut off from the Church can confer this sacrament?

FIRST ARTICLE.

WHETHER A BISHOP ALONE CONFERS THE SACRAMENT OF ORDER?

We proceed thus to the First Article :—

Objection 1. It would seem that not only a bishop confers the sacrament of Order. For the imposition of hands has something to do with the consecration. Now not only the bishop but also the assisting priests lay hands on the priests who are being ordained. Therefore not only a bishop confers the sacrament of Order.

Obj. 2. Further, A man receives the power of Order, when that which pertains to the act of his Order is handed to him. Now the cruet with water, maniple* and towel, are given to the subdeacon by the archdeacon; as also the candlestick with candle, and the empty cruet to the acolyte. Therefore not only the bishop confers the sacrament of Order.

Obj. 3. Further, That which belongs to an Order cannot be entrusted to one who has not the Order. Now the

* *Mantili.* But the archdeacon does not give the maniple to the subdeacon, and the text should read *urceolus cum aquamanili et manutergio*, the cruet, bowl and towel. See Cath. Encycl. under *Manuterge.*

conferring of minor Orders is entrusted to certain persons who are not bishops, for instance to Cardinal priests. Therefore the conferring of Orders does not belong to the episcopal Order.

Obj. 4. Further, Whoever is entrusted with the principal is entrusted with the accessory also. Now the sacrament of Order is directed to the Eucharist, as accessory to principal. Since then a priest consecrates the Eucharist, he can also confer Orders.

Obj. 5. Further, There is a greater distinction between a priest and a deacon than between bishop and bishop. But a bishop can consecrate a bishop. Therefore a priest can ordain a deacon.

On the contrary, Ministers are applied by their Orders to the Divine worship in a more noble way than the sacred vessels. But the consecration of the vessels belongs to a bishop only. Much more therefore does the consecration of ministers.

Further, The sacrament of Order ranks higher than the sacrament of Confirmation. Now a bishop alone confirms. Much more therefore does a bishop alone confer the sacrament of Order.

Further, Virgins are not placed in a degree of spiritual power by their consecration, as the ordained are. Yet a bishop alone can consecrate a virgin. Therefore much more can he alone ordain.

I answer that, The episcopal power stands in the same relation to the power of the lower Orders, as political science, which seeks the common good, to the lower acts and virtues which seek some special good, as appears from what was said above (Q. XXXVII., A. 1). Now political science, as stated in *Ethic.* i. 2, lays down the law to lower sciences, namely what science each one ought to cultivate, and how far he should pursue them and in what way. Wherefore it belongs to a bishop to assign others to places in all the Divine services. Hence he alone confirms, because those who are confirmed receive the office, as it were, of confessing the faith; again he alone blesses virgins who are images of the Church, Christ's spouse, the care of which is entrusted

chiefly to him; and he it is who consecrates the candidates for ordination to the ministry of Orders, and, by his consecration, appoints the vessels that they are to use; even as secular offices in various cities are allotted by him who holds the highest power, for instance by the king.

Reply Obj. 1. As stated above (Q. XXXVII., A. 5), at the imposition of hands there is given, not the character of the priestly Order, but grace which makes a man fit to exercise his Order. And since those who are raised to the priesthood need most copious grace, the priests together with the bishop lay hands on them, but the bishop alone lays hands on deacons.

Reply Obj. 2. Since the archdeacon is as it were minister in chief, all things pertaining to the ministry are handed by him, for instance the candle with which the acolyte serves the deacon by carrying it before him at the Gospel, and the cruet with which he serves the subdeacon; and in like manner he gives the subdeacon the things with which the latter serves the higher Orders. And yet the principal act of the subdeacon does not consist in these things, but in his co-operation as regards the matter of the sacrament; wherefore he receives the character through the chalice being handed to him by the bishop. On the other hand, the acolyte receives the character by virtue of the words of the bishop when the aforesaid things—the cruet rather than the candlestick—are handed to him by the archdeacon. Hence it does not follow that the archdeacon ordains.

Reply Obj. 3. The Pope who has the fulness of episcopal power, can entrust one who is not a bishop with things pertaining to the episcopal dignity, provided they bear no immediate relation to the true body of Christ. Hence by virtue of his commission a simple priest can confer the minor Orders and confirm; but not one who is not a priest. Nor can a priest confer the higher Orders which bear an immediate relation to Christ's body, over the consecration of which the Pope's power is no greater than that of a simple priest.

Reply Obj. 4. Although the Eucharist is in itself the

greatest of the sacraments, it does not place a man in an office as does the sacrament of Order. Hence the comparison fails.

Reply Obj. 5. In order to bestow what one has on another, it is necessary not only to be near him but also to have fulness of power. And since a priest has not fulness of power in the hierarchical offices, as a bishop has, it does not follow that he can raise others to the diaconate, although the latter Order is near to his.

Second Article.

whether heretics and those who are cut off from the church can confer orders?*

We proceed thus to the Second Article:—

Objection 1. It would seem that heretics and those who are cut off from the Church cannot confer Orders. For to confer Orders is a greater thing than to loose or bind anyone. But a heretic cannot loose or bind. Neither therefore can he ordain.

Obj. 2. Further, A priest that is separated from the Church can consecrate, because the character whence he derives this power remains in him indelibly. But a bishop receives no character when he is raised to the episcopate. Therefore he does not necessarily retain the episcopal power after his separation from the Church.

Obj. 3. Further, In no community can one who is expelled therefrom dispose of the offices of the community. Now Orders are offices of the Church. Therefore one who is outside the Church cannot confer Orders.

Obj. 4. Further, The sacraments derive their efficacy from Christ's passion. Now a heretic is not united to Christ's passion; neither by his own faith, since he is an unbeliever, nor by the faith of the Church, since he is severed from the Church. Therefore he cannot confer the sacrament of Orders.

Obj. 5. Further, A blessing is necessary in the conferring of Orders. But a heretic cannot bless; in fact his blessing

* Cf. P. III., Q. LXIV., AA. 5, 9.

is turned into a curse, as appears from the authorities quoted in the text (iv. *Sent.* D. 25). Therefore he cannot ordain.

On the contrary, When a bishop who has fallen into heresy is reconciled he is not reconsecrated. Therefore he did not lose the power which he had of conferring Orders.

Further, The power to ordain is greater than the power of Orders. But the power of Orders is not forfeited on account of heresy and the like. Neither therefore is the power to ordain.

Further, As the one who baptizes exercises a merely outward ministry, so does one who ordains, while God works inwardly. But one who is cut off from the Church by no means loses the power to baptize. Neither therefore does he lose the power to ordain.

I answer that, On this question four opinions are mentioned in the text (*loc. cit.*). For some said that heretics, so long as they are tolerated by the Church, retain the power to ordain, but not after they have been cut off from the Church; as neither do those who have been degraded and the like. This is the first opinion. Yet this is impossible, because, happen what may, no power that is given with a consecration can be taken away, so long as the thing itself remains, any more than the consecration itself can be annulled, for even an altar or chrism once consecrated remains consecrated for ever. Wherefore, since the episcopal power is conferred by consecration, it must needs endure for ever, however much a man may sin or be cut off from the Church. For this reason others said that those who are cut off from the Church after having episcopal power in the Church, retain the power to ordain and raise others, but that those who are raised by them have not this power. This is the fourth opinion. But this again is impossible, for if those who were ordained in the Church retain the power they received, it is clear that by exercising their power they consecrate validly, and therefore they validly confer whatever power is given with that consecration, and thus those who receive ordination or promotion

from them have the same power as they. Wherefore others said that even those who are cut off from the Church can confer Orders and the other sacraments, provided they observe the due form and intention, both as to the first effect, which is the conferring of the sacrament, and as to the ultimate effect, which is the conferring of grace. But this again is inadmissible, since by the very fact that a person communicates in the sacraments with a heretic who is cut off from the Church, he sins, and thus approaches the sacrament insincerely and cannot obtain grace, except perhaps in Baptism in a case of necessity. Hence others say that they confer the sacraments validly, but do not confer grace with them, not that the sacraments are lacking in efficacy, but on account of the sins of those who receive the sacraments from such persons despite the prohibition of the Church. This is the third and the true opinion.

Reply Obj. 1. The effect of absolution is nothing else but the forgiveness of sins which results from grace, and consequently a heretic cannot absolve, as neither can he confer grace in the sacraments. Moreover in order to give absolution it is necessary to have jurisdiction, which one who is cut off from the Church has not.

Reply Obj. 2. When a man is raised to the episcopate he receives a power which he retains for ever. This, however, cannot be called a character, because a man is not thereby placed in direct relation to God, but to Christ's mystical body. Nevertheless it remains indelibly, even as the character, because it is given by consecration.

Reply Obj. 3. Those who are ordained by heretics, although they receive an Order, they receive not the exercise thereof, so as to minister lawfully in their Orders, for the very reason indicated in the *Objection.*

Reply Obj. 4. They are united to the passion of Christ by the faith of the Church, for although in themselves they are severed from it, they are united to it as regards the form of the Church which they observe.

Reply Obj. 5. This refers to the ultimate effect of the sacraments, as the third opinion maintains.

QUESTION XXXIX.

OF THE IMPEDIMENTS TO THIS SACRAMENT.

(In Six Articles.)

We must next consider the impediments to this sacrament. Under this head there are six points of inquiry: (1) Whether the female sex is an impediment to receiving this sacrament? (2) Whether lack of the use of reason is? (3) Whether the state of slavery is? (4) Whether homicide is? (5) Whether illegitimate birth is? (6) Whether lack of members is?

First Article.

WHETHER THE FEMALE SEX IS AN IMPEDIMENT TO RECEIVING ORDERS?

We proceed thus to the First Article:—

Objection 1. It would seem that the female sex is no impediment to receiving Orders. For the office of prophet is greater than the office of priest, since a prophet stands midway between God and priests, just as the priest does between God and people. Now the office of prophet was sometimes granted to women, as may be gathered from 4 Kings xxii. 14. Therefore the office of priest also may be competent to them.

Obj. 2. Further, Just as Order pertains to a kind of pre-eminence, so does a position of authority as well as martyrdom and the religious state. Now authority is entrusted to women in the New Testament, as in the case of abbesses, and in the Old Testament, as in the case of Debbora, who judged Israel (Judges ii.). Moreover martyr-

dom and the religious life are also befitting to them. Therefore the Orders of the Church are also competent to them.

Obj. 3. Further, The power of Orders is founded in the soul. But sex is not in the soul. Therefore difference in sex makes no difference to the reception of Orders.

On the contrary, It is said (1 Tim. ii. 12): *I suffer not a woman to teach (in the Church),* nor to use authority over the man.*

Further, The crown is required previous to receiving Orders, albeit not for the validity of the sacrament. But the crown or tonsure is not befitting to women according to 1 Cor. xi. Neither therefore is the receiving of Orders.

I answer that, Certain things are required in the recipient of a sacrament as being requisite for the validity of the sacrament, and if such things be lacking, one can receive neither the sacrament nor the reality of the sacrament. Other things, however, are required, not for the validity of the sacrament, but for its lawfulness, as being congruous to the sacrament; and without these one receives the sacrament, but not the reality of the sacrament. Accordingly we must say that the male sex is required for receiving Orders not only in the second, but also in the first way. Wherefore even though a woman were made the object of all that is done in conferring Orders, she would not receive Orders, for since a sacrament is a sign, not only the thing, but the signification of the thing, is required in all sacramental actions; thus it was stated above (Q. XXXII., A. 2) that in Extreme Unction it is necessary to have a sick man, in order to signify the need of healing. Accordingly, since it is not possible in the female sex to signify eminence of degree, for a woman is in the state of subjection, it follows that she cannot receive the sacrament of Order. Some, however, have asserted that the male sex is necessary for the lawfulness and not for the validity of the sacrament, because even in the Decretals (cap. *Mulieres,* dist. 32; cap. *Diaconissam,* 27, qu. i.) mention

* The words in parenthesis are from 1 Cor. xiv. 34, *Let women keep silence in the churches.*

is made of deaconesses and priestesses. But deaconess there denotes a woman who shares in some act of a deacon, namely who reads the homilies in the Church; and a priestess (*presbytera*) is a widow, for the word 'presbyter' means elder.

Reply Obj. 1. Prophecy is not a sacrament but a gift of God. Wherefore there it is not the signification, but only the thing which is necessary. And since in matters pertaining to the soul woman does not differ from man as to the thing (for sometimes a woman is found to be better than many men as regards the soul), it follows that she can receive the gift of prophecy and the like, but not the sacrament of Orders.

And thereby appears the *Reply* to the *Second* and *Third Objections*. However, as to abbesses, it is said that they have not ordinary authority, but delegated as it were, on account of the danger of men and women living together. But Debbora exercised authority in temporal not in priestly matters, even as now woman may have temporal power.

Second Article.

Whether boys and those who lack the use of reason can receive Orders?

We proceed thus to the Second Article:—

Objection 1. It would seem that boys and those who lack the use of reason cannot receive Orders. For, as stated in the text (iv. *Sent.* D. 25), the sacred canons have appointed a certain fixed age in those who receive Orders. But this would not be if boys could receive the sacrament of Orders. Therefore, etc.

Obj. 2. Further, The sacrament of Orders ranks above the sacrament of matrimony. Now children and those who lack the use of reason cannot contract matrimony. Neither therefore can they receive Orders.

Obj. 3. Further, Act and power are in the same subject, according to the Philosopher (*De Somn. et Vigil.* i.). Now the act of Orders requires the use of reason. Therefore the power of Orders does also.

On the contrary, One who is raised to Orders before the age of discretion is sometimes allowed to exercise them without being reordained, as appears from Extra., *De Cler. per salt. prom.* But this would not be the case if he had not received Orders. Therefore a boy can receive Orders.

Further, Boys can receive other sacraments in which a character is imprinted, namely Baptism and Confirmation. Therefore in like manner they can receive Orders.

I answer that, Boyhood and other defects which remove the use of reason occasion an impediment to act. Wherefore the like are unfit to receive all those sacraments which require an act on the part of the recipient of the sacrament, such as Penance, Matrimony, and so forth. But since infused powers like natural powers precede acts—although acquired powers follow acts—and the removal of that which comes after does not entail the removal of what comes first, it follows that children and those who lack the use of reason can receive all the sacraments in which an act on the part of the recipient is not required for the validity of the sacrament, but some spiritual power is conferred from above; with this difference, however, that in the minor Orders the age of discretion is required out of respect for the dignity of the sacrament, but not for its lawfulness, nor for its validity. Hence some can without sin be raised to the minor Orders before the years of discretion, if there be an urgent reason for it and hope of their proficiency, and they are validly ordained; for although at the time they are not qualified for the offices entrusted to them, they will become qualified by being habituated thereto. For the higher Orders, however, the use of reason is required both out of respect for, and for the lawfulness of the sacrament, not only on account of the vow of continency annexed thereto, but also because the handling of the sacraments is entrusted to them.* But for the episcopate whereby a man receives power also over the mystic body, the act of accepting the pastoral care of souls is

* See Acts of the Council of Trent (*De Reform.*, Sess. xxiii., cap. 4, 11, 12).

required; wherefore the use of reason is necessary for the validity of episcopal consecration. Some, however, maintain that the use of reason is necessary for the validity of the sacrament in all the Orders; but this statement is not confirmed either by authority or by reason.

Reply Obj. 1. As stated in the *Article*, not all that is necessary for the lawfulness of a sacrament is required for its validity.

Reply Obj. 2. The cause of matrimony is consent, which cannot be without the use of reason. Whereas in the reception of Orders no act is required on the part of the recipients, since no act on their part is expressed in their consecration. Hence there is no comparison.

Reply Obj. 3. Act and power are in the same subject; yet sometimes a power, such as the free-will, precedes its act; and thus it is in the case in point.

THIRD ARTICLE.

WHETHER THE STATE OF SLAVERY IS AN IMPEDIMENT TO RECEIVING ORDERS?

We proceed thus to the Third Article:—

Objection 1. It would seem that the state of slavery is not an impediment to receiving Orders. For corporal subjection is not incompatible with spiritual authority. But in a slave there is corporal subjection. Therefore he is not hindered from receiving the spiritual authority which is given in Orders.

Obj. 2. Further, That which is an occasion for humility should not be an impediment to the reception of a sacrament. Now such is slavery, for the Apostle counsels a man, if possible, rather to remain in slavery (1 Cor. vii. 21). Therefore it should not hinder him from being raised to Orders.

Obj. 3. Further, It is more disgraceful for a cleric to become a slave than for a slave to be made a cleric. Yet a cleric may lawfully be sold as a slave; for a bishop of Nola, Paulinus, to wit, sold himself as a slave as related

by Gregory (*Dial.* iii.). Much more therefore can a slave be made a cleric.

Obj. 4. *On the contrary,* it would seem that it is an impediment to the validity of the sacrament. For a woman, on account of her subjection, cannot receive the sacrament of Orders. But greater still is the subjection in a slave; since woman was not given to man as his handmaid (for which reason she was not made from his feet). Therefore neither can a slave receive this sacrament.

Obj. 5. Further, A man, from the fact that he receives an Order, is bound to minister in that Order. But he cannot at the same time serve his carnal master and exercise his spiritual ministry. Therefore it would seem that he cannot receive Orders, since the master must be indemnified.

I answer that, By receiving Orders a man pledges himself to the Divine offices. And since no man can give what is not his, a slave who has not the disposal of himself, cannot be raised to Orders. If, however, he be raised, he receives the Order, because freedom is not required for the validity of the sacrament, although it is requisite for its lawfulness, since it hinders not the power, but the act only. The same reason applies to all who are under an obligation to others, such as those who are in debt and like persons.

Reply Obj. 1. The reception of spiritual power involves also an obligation to certain bodily actions, and consequently it is hindered by bodily subjection.

Reply Obj. 2. A man may take an occasion for humility from many other things which do not prove a hindrance to the exercise of Orders.

Reply Obj. 3. The blessed Paulinus did this out of the abundance of his charity, being led by the spirit of God; as was proved by the result of his action, since by his becoming a slave, many of his flock were freed from slavery. Hence we must not draw a conclusion from this particular instance, since *where the spirit of the Lord is, there is liberty* (2 Cor. iii. 17).

Reply Obj. 4. The sacramental signs signify by reason

of their natural likeness. Now a woman is a subject by her nature, whereas a slave is not. Hence the comparison fails.

Reply Obj. 5. If he be ordained, his master knowing and not dissenting, by this very fact he becomes a freedman. But if his master be in ignorance, the bishop and he who presented him are bound to pay the master double the slave's value, if they knew him to be a slave. Otherwise if the slave has possessions of his own, he is bound to buy his freedom, else he would have to return to the bondage of his master, notwithstanding the impossibility of his exercising his Order.

FOURTH ARTICLE.

WHETHER A MAN SHOULD BE DEBARRED FROM RECEIVING ORDERS ON ACCOUNT OF HOMICIDE?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that a man ought not to be debarred from receiving Orders on account of homicide. Because our Orders originated with the office of the Levites, as stated in the previous *Distinction* (iv. *Sent.* D. 24 qu. iii.; A. 1; qu. i., *ad* 1). But the Levites consecrated their hands by shedding the blood of their brethren (Exod. xxxii. 29). Therefore neither should anyone in the New Testament be debarred from receiving Orders on account of the shedding of blood.

Obj. 2. Further, No one should be debarred from a sacrament on account of an act of virtue. Now blood is sometimes shed for justice' sake, for instance by a judge; and he who has the office would sin if he did not shed it. Therefore he is not hindered on that account from receiving Orders.

Obj. 3. Further, Punishment is not due save for a fault. Now sometimes a person commits homicide without fault, for instance by defending himself, or again by mishap. Therefore he ought not to incur the punishment of irregularity.

On the contrary, There are many canonical statutes (Cap. *Miror;* cap. *Clericum;* cap. *De his Cler.* dist. 1; cap. *Continebatur,* De homic. volunt.), as also the custom of the Church.

I answer that, All the Orders bear a relation to the sacrament of the Eucharist, which is the sacrament of the peace vouchsafed to us by the shedding of Christ's blood. And since homicide is most opposed to peace, and those who slay are conformed to Christ's slayers rather than to Christ slain, to whom all the ministers of the aforesaid sacrament ought to be conformed, it follows that it is unlawful, although not invalid, for homicides to be raised to Orders.

Reply Obj. 1. The Old Law inflicted the punishment of blood, whereas the New Law does not. Hence the comparison fails between the ministers of the Old Testament and those of the New, which is a sweet yoke and a light burden (Matth. xi. 30).

Reply Obj. 2. Irregularity is incurred not only on account of sin, but chiefly on account of a person being unfit to administer the sacrament of the Eucharist. Hence the judge and all who take part with him in a cause of blood, are irregular, because the shedding of blood is unbecoming to the ministers of that sacrament.

Reply Obj. 3. No one does a thing without being the cause thereof, and in man this is something voluntary. Hence he who by mishap slays a man without knowing that it is a man, is not called a homicide, nor does he incur irregularity (unless he was occupying himself in some unlawful manner, or failed to take sufficient care, since in this case the slaying becomes somewhat voluntary). But this is not because he is not in fault, since irregularity is incurred even without fault. Wherefore even he who in a particular case slays a man in self-defence without committing a sin, is none the less irregular.*

* S. Thomas is speaking according to the canon law of his time. This is no longer the case now.

FIFTH ARTICLE.

WHETHER THOSE OF ILLEGITIMATE BIRTH SHOULD BE DEBARRED FROM RECEIVING ORDERS?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that those who are of illegitimate birth should not be debarred from receiving Orders. For the son should not bear the iniquity of the father (Ezech. xviii. 20); and yet he would if this were an impediment to his receiving Orders. Therefore, etc.

Obj. 2. Further, One's own fault is a greater impediment than the fault of another. Now unlawful intercourse does not always debar a man from receiving Orders. Therefore neither should he be debarred by the unlawful intercourse of his father.

On the contrary, It is written (Deut. xxiii. 2): *A mamzer, that is to say, one born of a prostitute, shall not enter into the Church of the Lord until the tenth generation.* Much less therefore should he be ordained.

I answer that, Those who are ordained are placed in a position of dignity over others. Hence by a kind of propriety it is requisite that they should be without reproach, not for the validity but for the lawfulness of the sacrament, namely that they should be of good repute, bedecked with a virtuous life, and not publicly penitent. And since a man's good name is bedimmed by a sinful origin, therefore those also who are born of an unlawful union are debarred from receiving Orders, unless they receive a dispensation; and this is the more difficult to obtain, according as their origin is more discreditable.

Reply Obj. 1. Irregularity is not a punishment due for sin. Hence it is clear that those who are of illegitimate birth do not bear the iniquity of their father through being irregular.

Reply Obj. 2. What a man does by his own act can be removed by repentance and by a contrary act; not so the things which are from nature. Hence the comparison fails between sinful act and sinful origin.

Sixth Article.

whether lack of members should be an impediment?

We proceed thus to the Sixth Article:—

Objection 1. It would seem that a man ought not to be debarred from receiving Orders on account of a lack of members. For one who is afflicted should not receive additional affliction. Therefore a man ought not to be deprived of the degree of Orders on account of his suffering a bodily defect.

Obj. 2. Further, Integrity of discretion is more necessary for the act of Orders than integrity of body. But some can be ordained before the years of discretion. Therefore they can also be ordained though deficient in body.

On the contrary, The like were debarred from the ministry of the Old Law (Levit. xxi. 18 *seqq.*). Much more therefore should they be debarred in the New Law.

We shall speak of bigamy in the treatise on Matrimony (Q. LXVI.).

I answer that, As appears from what we have said above (AA. 3, 4, 5), a man is disqualified from receiving Orders, either on account of an impediment to the act, or on account of an impediment affecting his personal comeliness. Hence he who suffers from a lack of members is debarred from receiving Orders, if the defect be such as to cause a notable blemish, whereby a man's comeliness is bedimmed (for instance if his nose be cut off) or the exercise of his Order imperilled; otherwise he is not debarred. This integrity, however, is necessary for the lawfulness and not for the validity of the sacrament.

This suffices for the *Replies* to the *Objections.*

QUESTION XL.

OF THE THINGS ANNEXED TO THE SACRAMENT OF ORDER.

(*In Seven Articles.*)

We must now consider the things that are annexed to the sacrament of Order. Under this head there are seven points of inquiry: (1) Whether those who are ordained ought to be shaven and tonsured in the form of a crown? (2) Whether the tonsure is an Order? (3) Whether by receiving the tonsure one renounces temporal goods? (4) Whether above the priestly Order there should be an episcopal power? (5) Whether the episcopate is an Order? (6) Whether in the Church there can be any power above the episcopate? (7) Whether the vestments of the ministers are fittingly instituted by the Church?

First Article.

WHETHER THOSE WHO ARE ORDAINED OUGHT TO WEAR THE TONSURE?

We proceed thus to the First Article:—

Objection 1. It would seem that those who are ordained ought not to wear the tonsure in the shape of a crown. For the Lord threatened captivity and dispersion to those who were shaven in this way: *Of the captivity of the bare head of the enemies* (Deut. xxxii. 42), and: *I will scatter into every wind them that have their hair cut round* (Jer. xlix. 32). Now the ministers of Christ should not be captives, but free. Therefore shaving and tonsure in the shape of a crown does not become them.

Obj. 2. Further, The truth should correspond to the figure. Now the crown was prefigured in the Old Law by the tonsure of the Nazareans, as stated in the text (iv. *Sent.* D. 24.). Therefore since the Nazareans were not ordained to the Divine ministry, it would seem that the ministers of the Church should not receive the tonsure or shave the head in the form of a crown. The same would seem to follow from the fact that lay brothers, who are not ministers of the Church, receive a tonsure in the religious orders.

Obj. 3. Further, The hair signifies superabundance, because it grows from that which is superabundant. But the ministers of the Church should cast off all superabundance. Therefore they should shave the head completely and not in the shape of a crown.

On the contrary, According to Gregory, *to serve God is to reign* (*Super Ps.* ci. 23). Now a crown is the sign of royalty. Therefore a crown is becoming to those who are devoted to the Divine ministry.

Further, According to 1 Cor. xi. 15, Hair is given us *for a covering.* But the ministers of the altar should have the mind uncovered. Therefore the tonsure is becoming to them.

I answer that, It is becoming for those who apply themselves to the Divine ministry to be shaven or tonsured in the form of a crown by reason of the shape. Because a crown is the sign of royalty; and of perfection, since it is circular; and those who are appointed to the Divine service acquire a royal dignity and ought to be perfect in virtue. It is also becoming to them as it involves the hair being taken both from the higher part of the head by shaving, lest their mind be hindered by temporal occupations from contemplating Divine things, and from the lower part by clipping, lest their senses be entangled in temporal things.

Reply Obj. 1. The Lord threatens those who did this for the worship of demons.

Reply Obj. 2. The things that were done in the Old Testament represent imperfectly the things of the New Testament. Hence things pertaining to the ministers of

the New Testament were signified not only by the offices of the Levites, but also by all those persons who professed some degree of perfection. Now the Nazareans professed a certain perfection by having their hair cut off, thus signifying their contempt of temporal things, although they did not have it cut in the shape of a crown, but cut it off completely, for as yet it was not the time of the royal and perfect priesthood. In like manner lay brothers have their hair cut because they renounce temporalities; but they do not shave the head, because they are not occupied in the Divine ministry, so as to have to contemplate Divine things with the mind.

Reply Obj. 3. Not only the renunciation of temporalities, but also the royal dignity has to be signified by the form of a crown; wherefore the hair should not be cut off entirely. Another reason is that this would be unbecoming.

Second Article.

whether the tonsure is an order?

We proceed thus to the Second Article:—

Objection 1. It would seem that the tonsure is an Order. For in the acts of the Church the spiritual corresponds to the corporal. Now the tonsure is a corporal sign employed by the Church. Therefore seemingly there is some interior signification corresponding thereto; so that a person receives a character when he receives the tonsure, and consequently the latter is an order.

Obj. 2. Further, Just as Confirmation and the other Orders are given by a bishop alone, so is the tonsure. Now a character is imprinted in Confirmation, and the other Orders. Therefore one is imprinted likewise in receiving the tonsure. Therefore the same conclusion follows.

Obj. 3. Further, Order denotes a degree of dignity. Now a cleric by the very fact of being a cleric is placed on a degree above the people. Therefore the tonsure by which he is made a cleric is an Order.

On the contrary, No Order is given except during the

celebration of Mass. But the tonsure is given even outside the office of the Mass. Therefore it is not an Order.

Further, In the conferring of every Order mention is made of some power granted, but not in the conferring of the tonsure. Therefore it is not an Order.

I answer that, The ministers of the Church are severed from the people in order that they may give themselves entirely to the Divine worship. Now in the Divine worship are certain actions that have to be exercised by virtue of certain definite powers, and for this purpose the spiritual power of Order is given; while other actions are performed by the whole body of ministers in common, for instance the recital of the Divine praises. For such things it is not necessary to have the power of Order, but only to be deputed to such an office; and this is done by the tonsure. Consequently it is not an Order but a preamble to Orders.

Reply Obj. 1. The tonsure has some spiritual thing inwardly corresponding to it, as signate corresponds to sign; but this is not a spiritual power. Wherefore a character is not imprinted in the tonsure as in an Order.

Reply Obj. 2. Although a man does not receive a character in the tonsure, nevertheless he is appointed to the Divine worship. Hence this appointment should be made by the supreme minister, namely the bishop, who moreover blesses the vestments and vessels and whatsoever else is employed in the Divine worship.

Reply Obj. 3. A man through being a cleric is in a higher state than a layman; but as regards power he has not the higher degree that is required for Orders.

Third Article.

whether by receiving the tonsure a man renounces temporal goods?

We proceed thus to the Third Article:—

Objection 1. It would seem that men renounce temporal goods by receiving the tonsure, for when they are tonsured they say: *The Lord is the portion of my inheritance.*

But, as Jerome says (*Ep. ad Nepot.*), *the Lord disdains to be made a portion together with these temporal things.* Therefore he renounces temporalities.

Obj. 2. Further, The justice of the ministers of the New Testament ought to abound more than that of the ministers of the Old Testament (Matth. v. 20). But the ministers of the Old Testament, namely the Levites, did not receive a portion of inheritance with their brethren (Deut. x.; xviii.). Therefore neither should the ministers of the New Testament.

Obj. 3. Further, Hugh says (*De Sacram.* ii.) that *after a man is made a cleric, he must from thenceforward live on the pay of the Church.* But this would not be so were he to retain his patrimony. Therefore he would seem to renounce it by becoming a cleric.

On the contrary, Jeremias was of the priestly order (Jer. i. 1). Yet he retained possession of his inheritance (*ibid.* xxxii. 8). Therefore clerics can retain their patrimony.

Further, If this were not so there would seem to be no difference between religious and the secular clergy.

I answer that, Clerics by receiving the tonsure, do not renounce their patrimony or other temporalities; since the possession of earthly things is not contrary to the Divine worship to which clerics are appointed, although excessive care for such things is; for as Gregory says (*Moral.* x.), *it is not wealth but the love of wealth that is sinful.*

Reply Obj. 1. The Lord disdains to be a portion as being loved equally with other things, so that a man place his end in God and the things of the world. He does not, however, disdain to be the portion of those who so possess the things of the world as not to be withdrawn thereby from the Divine worship.

Reply Obj. 2. In the Old Testament the Levites had a right to their paternal inheritance; and the reason why they did not receive a portion with the other tribes was because they were scattered throughout all the tribes, which would have been impossible if, like the other tribes, they had received one fixed portion of the soil.

Reply Obj. 3. Clerics promoted to holy Orders, if they be poor, must be provided for by the bishop who ordained them; otherwise he is not so bound. And they are bound to minister to the Church in the Order they have received. The words of Hugh refer to those who have no means of livelihood.

Fourth Article.

whether above the priestly order there ought to be an episcopal power?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that there ought not to be an episcopal power above the priestly order. For as stated in the text (iv. *Sent.* D. 24) the *priestly Order originated from Aaron.* Now in the Old Law there was no one above Aaron. Therefore neither in the New Law ought there to be any power above that of the priests.

Obj. 2. Further, Powers rank according to acts. Now no sacred act can be greater than to consecrate the body of Christ, whereunto the priestly power is directed. Therefore there should not be an episcopal above the priestly power.

Obj. 3. Further, The priest, in offering, represents Christ in the Church, Who offered Himself for us to the Father. Now no one is above Christ in the Church, since He is the Head of the Church. Therefore there should not be an episcopal above the priestly power.

On the contrary, A power is so much the higher according as it extends to more things. Now the priestly power, according to Dionysius (*Eccl. Hier.* v.), extends only to cleansing and enlightening, whereas the episcopal power extends both to this and to perfecting. Therefore the episcopal should be above the priestly power.

Further, The Divine ministries should be more orderly than human ministries. Now the order of human ministries requires that in each office there should be one person to preside, just as a general is placed over soldiers. Therefore there should also be appointed over priests one who is the

chief priest, and this is the bishop. Therefore the episcopal should be above the priestly power.

I answer that, A priest has two acts: one is the principal, namely to consecrate the body of Christ; the other is secondary, namely to prepare God's people for the reception of this sacrament, as stated above (Q. XXXVII., AA. 2, 4). As regards the first act, the priest's power does not depend on a higher power save God's; but as to the second, it depends on a higher and that a human power. For every power that cannot exercise its act without certain ordinances, depends on the power that makes those ordinances. Now a priest cannot loose and bind, except we presuppose him to have the jurisdiction of authority, whereby those whom he absolves are subject to him. But he can consecrate any matter determined by Christ, nor is anything else required for the validity of the sacrament; although, on account of a certain congruousness, the act of the bishop is pre-required in the consecration of the altar, vestments, and so forth. Hence it is clear that it behoves the episcopal to be above the priestly power, as regards the priest's secondary act, but not as regards his primary act.

Reply Obj. 1. Aaron was both priest and pontiff, that is chief priest. Accordingly the priestly power originated from him, in so far as he was a priest offering sacrifices, which was lawful even to the lesser priests; but it does not originate from him as pontiff, by which power he was able to do certain things, for instance to enter once a year the Holy of Holies, which it was unlawful for the other priests to do.

Reply Obj. 2. There is no higher power with regard to this act, but with regard to another, as stated above.

Reply Obj. 3. Just as the perfections of all natural things pre-exist in God as their exemplar, so was Christ the exemplar of all ecclesiastical offices. Wherefore each minister of the Church is, in some respect, a copy of Christ, as stated in the text (iv. *Sent.* D. 24). Yet he is the higher who represents Christ according to a greater per-

fection. Now a priest represents Christ in that He fulfilled a certain ministry by Himself, whereas a bishop represents Him in that He instituted other ministers and founded the Church. Hence it belongs to a bishop to dedicate a thing to the Divine offices, as establishing the Divine worship after the manner of Christ. For this reason also a bishop is especially called the bridegroom of the Church even as Christ is.

Fifth Article.

whether the episcopate is an order?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that the episcopate is an Order. First of all, because Dionysius (*Eccl. Hier.* v.) assigns these three Orders to the ecclesiastical hierarchy, the bishop, the priest, and the minister. In the text also (iv. *Sent.* D. 24) it is stated that the episcopal Order is fourfold.

Obj. 2. Further, Order is nothing else but a degree of power in the dispensing of spiritual things. Now bishops can dispense certain sacraments which priests cannot dispense, namely Confirmation and Order. Therefore the episcopate is an Order.

Obj. 3. Further, In the Church there is no spiritual power other than of Order or jurisdiction. But things pertaining to the episcopal power are not matters of jurisdiction, else they might be committed to one who is not a bishop, which is false. Therefore they belong to the power of Order. Therefore the bishop has an Order which a simple priest has not; and thus the episcopate is an Order.

On the contrary, One Order does not depend on a preceding Order as regards the validity of the sacrament. But the episcopal power depends on the priestly power, since no one can receive the episcopal power unless he have previously the priestly power. Therefore the episcopate is not an Order.

Further, the greater Orders are not conferred except on

Saturdays.* But the episcopal power is bestowed on Sundays, as laid down in the Decretals (Dist. lxxv., cap. *Ordinationes*, ex Anacleto; cap. *Quod die Dominico*, ex Leone, i.). Therefore it is not an Order.

I answer that, Order may be understood in two ways. In one way as a sacrament, and thus, as already stated (Q. XXXVII., AA. 2, 4), every Order is directed to the sacrament of the Eucharist. Wherefore since the bishop has not a higher power than the priest, in this respect the episcopate is not an Order. In another way Order may be considered as an office in relation to certain sacred actions: and thus since in hierarchical actions a bishop has in relation to the mystical body a higher power than the priest, the episcopate is an Order. It is in this sense that the authorities quoted speak.

Hence the *Reply* to the *First Objection* is clear.

Reply Obj. 2. Order considered as a sacrament which imprints a character is specially directed to the sacrament of the Eucharist, in which Christ Himself is contained, because by a character we are made like to Christ Himself.† Hence although at his promotion a bishop receives a spiritual power in respect of certain sacraments, this power nevertheless has not the nature of a character. For this reason the episcopate is not an Order, in the sense in which an Order is a sacrament.

Reply Obj. 3. The episcopal power is one not only of jurisdiction but also of Order, as stated above, taking Order in the sense in which it is generally understood.

SIXTH ARTICLE.

WHETHER IN THE CHURCH THERE CAN BE ANYONE ABOVE THE BISHOPS?

We proceed thus to the Sixth Article:—

Objection 1. It would seem that there cannot be anyone in the Church higher than the bishops. For all the bishops are the successors of the apostles. Now the power so

* The four Ember Saturdays. † Cf. P. III., Q. LXIII., A. 3.

given to one of the apostles, namely Peter (Matth. xvi. 19), was given to all the apostles (Jo. xx. 23). Therefore all bishops are equal, and one is not above another.

Obj. 2. Further, The rite of the Church ought to be more conformed to the Jewish rite than to that of the Gentiles. Now the distinction of the episcopal dignity and the appointment of one over another, were introduced by the Gentiles, as stated in the text (iv. *Sent.* D. 24); and there was no such thing in the Old Law. Therefore neither in the Church should one bishop be above another.

Obj. 3. Further, A higher power cannot be conferred by a lower, nor equal by equal, because *without all contradiction that which is less is blessed by the greater* (Vulg.,—*better*); hence a priest does not consecrate a bishop, or a priest, but a bishop consecrates a priest. But a bishop can consecrate any bishop, since even the bishop of Ostia consecrates the Pope. Therefore the episcopal dignity is equal in all matters, and consequently one bishop should not be subject to another, as stated in the text (iv. *Sent.* D. 24).

On the contrary, We read in the council of Constantinople (i. can. 5; iv. cap. 21; Conc. Chalc., act. 16): *In accordance with the Scriptures and the statutes and definitions of the canons, we venerate the most holy bishop of ancient Rome the first and greatest of bishops, and after him the bishop of Constantinople.* Therefore one bishop is above another.

Further, The blessed Cyril, bishop of Alexandria, says: *That we may remain members of our apostolic head, the throne of the Roman Pontiffs, of whom it is our duty to seek what we are to believe and what we are to hold, venerating him, beseeching him above others; for his it is to reprove, to correct, to appoint, to loose, and to bind in place of Him Who set up that very throne, and Who gave the fulness of His own to no other, but to him alone, to whom by right divine all bow the head, and the primates of the world are obedient as to our Lord Jesus Christ Himself.* Therefore bishops are subject to someone even by right divine.

I answer that, Wherever there are several authorities

directed to one purpose, there must needs be one universal authority over the particular authorities, because in all virtues and acts the order is according to the order of their ends (*Ethic.* i. 1, 2). Now the common good is more Godlike than the particular good. Wherefore above the governing power which aims at a particular good there must be a universal governing power in respect of the common good, otherwise there would be no cohesion towards the one object. Hence since the whole Church is one body, it behoves, if this oneness is to be preserved, that there be a governing power in respect of the whole Church, above the episcopal power whereby each particular Church is governed, and this is the power of the Pope. Consequently those who deny this power are called schismatics as causing a division in the unity of the Church. Again, between a simple bishop and the Pope there are other degrees of rank corresponding to the degrees of union, in respect of which one congregation or community includes another; thus the community of a province includes the community of a city, and the community of a kingdom includes the community of one province, and the community of the whole world includes the community of one kingdom.

Reply Obj. 1. Although the power of binding and loosing was given to all the apostles in common, nevertheless in order to indicate some order in this power, it was given first of all to Peter alone, to show that this power must come down from him to the others. For this reason He said to him in the singular: *Confirm thy brethren* (Luke xxii. 32), and: *Feed My sheep* (Jo. xxi. 17), i.e. according to Chrysostom: *Be thou the president and head of thy brethren in My stead, that they, putting thee in My place, may preach and confirm thee throughout the world whilst thou sittest on thy throne.*

Reply Obj. 2. The Jewish rite was not spread abroad in various kingdoms and provinces, but was confined to one nation; hence there was no need to distinguish various pontiffs under the one who had the chief power. But the rite of the Church, like that of the Gentiles, is spread abroad

through various nations; and consequently in this respect it is necessary for the constitution of the Church to be like the rite of the Gentiles rather than that of the Jews.

Reply Obj. 3. The priestly power is surpassed by the episcopal power, as by a power of a different kind; but the episcopal is surpassed by the papal power as by a power of the same kind. Hence a bishop can perform every hierarchical act that the Pope can; whereas a priest cannot perform every act that a bishop can in conferring the sacraments. Wherefore, as regards matters pertaining to the episcopal order, all bishops are equal, and for this reason any bishop can consecrate another bishop.

Seventh Article.

Whether the vestments of the ministers are fittingly instituted in the Church?

We proceed thus to the Seventh Article:—

Objection 1. It would seem that the vestments of the ministers are not fittingly instituted in the Church. For the ministers of the New Testament are more bound to chastity than were the ministers of the Old Testament. Now among the vestments of the Old Testament there were the breeches as a sign of chastity. Much more therefore should they have a place among the vestments of the Church's ministers.

Obj. 2. Further, The priesthood of the New Testament is more worthy than the priesthood of the Old. But the priests of the Old Testament had mitres, which are a sign of dignity. Therefore the priests of the New Testament should also have them.

Obj. 3. Further, The priest is nearer than the episcopal Order to the Orders of ministers. Now the bishop uses the vestments of the ministers, namely the dalmatic, which is the deacon's vestment, and the tunic, which is the subdeacon's. Much more therefore should simple priests use them.

Obj. 4. Further, In the Old Law the pontiff wore the

ephod,* which signified the burden of the Gospel, as Bede observes (*De Tabernac.* iii.). Now this is especially incumbent on our pontiffs. Therefore they ought to wear the ephod.

Obj. 5. Further, *Doctrine and Truth* were inscribed on the *rational* which the pontiffs of the Old Testament wore. Now truth was made known especially in the New Law. Therefore it is becoming to the pontiffs of the New Law.

Obj. 6. Further, The golden plate on which was written the most admirable name of God, was the most admirable of the adornments of the Old Law. Therefore it should especially have been transferred to the New Law.

Obj. 7. Further, The things which the ministers of the Church wear outwardly are signs of inward power. Now the archbishop has no other kind of power than a bishop, as stated above (A. 6). Therefore he should not have the pallium which other bishops have not.

Obj. 8. Further, The fulness of power resides in the Roman Pontiff. But he has not a crozier. Therefore other bishops should not have one.

I answer that, The vestments of the ministers denote the qualifications required of them for handling Divine things. And since certain things are required of all, and some are required of the higher, that are not so exacted of the lower ministers, therefore certain vestments are common to all the ministers, while some pertain to the higher ministers only. Accordingly it is becoming to all the ministers to wear the *amice* which covers the shoulders, thereby signifying courage in the exercise of the Divine offices to which they are deputed; and the *alb,* which signifies a pure life, and the *girdle,* which signifies restraint of the flesh. But the subdeacon wears in addition the *maniple* on the left arm; this signifies the wiping away of the least stains, since a maniple is a kind of handkerchief for wiping the face; for they are the first to be admitted to the handling of sacred things. They also have the *narrow tunic,* signifying the doctrine of Christ; wherefore in the Old Law little bells

* Superhumerale, i.e. over-the-shoulders.

hung therefrom, and subdeacons are the first admitted to announce the doctrine of the New Law. The deacon has in addition the *stole* over the left shoulder, as a sign that he is deputed to a ministry in the sacraments themselves, and the *dalmatic* (which is a full vestment, so called because it first came into use in Dalmatia), to signify that he is the first to be appointed to dispense the sacraments: for he dispenses the blood, and in dispensing one should be generous.

But in the case of the priest the *stole* hangs from both shoulders, to show that he has received full power to dispense the sacraments, and not as the minister of another man, for which reason the stole reaches right down. He also wears the *chasuble*, which signifies charity, because he it is who consecrates the sacrament of charity, namely the Eucharist.

Bishops have nine ornaments besides those which the priest has; these are the *stockings, sandals, succinctory, tunic, dalmatic, mitre, gloves, ring, and crozier*, because there are nine things which they can, but priests cannot, do, namely ordain clerics, bless virgins, consecrate bishops, impose hands, dedicate churches, depose clerics, celebrate synods, consecrate chrism, bless vestments and vessels.

We may also say that the stockings signify his upright walk; the sandals which cover the feet, his contempt of earthly things; the succinctory which girds the stole with the alb, his love of probity; the tunic, perseverance, for Joseph is said (Gen. xxxvii. 23) to have had a long tunic,—*talari*, because it reached down to the ankles (*talos*), which denote the end of life; the dalmatic, generosity in works of mercy; the gloves, prudence in action; the mitre, knowledge of both Testaments, for which reason it has two crests; the crozier, his pastoral care, whereby he has to gather together the wayward (this is denoted by the curve at the head of the crozier), to uphold the weak (this is denoted by the stem of the crozier), and to spur on the laggards (this is denoted by the point at the foot of the crozier). Hence the line:

> Gather, uphold, spur on
> The wayward, the weak, and the laggard.

The ring signifies the sacraments of that faith whereby the Church is espoused to Christ. For bishops are espoused to the Church in the place of Christ. Furthermore archbishops have the *pallium* in sign of their privileged power, for it signifies the golden chain which those who fought rightfully were wont to receive.

Reply Obj. 1. The priests of the Old Law were enjoined continency only for the time of their attendance for the purpose of their ministry. Wherefore as a sign of the chastity which they had then to observe, they wore the breeches while offering sacrifices. But the ministers of the New Testament are enjoined perpetual continency; and so the comparison fails.

Reply Obj. 2. The mitre was not a sign of dignity, for it was a kind of hat, as Jerome says (*Ep. ad Fabiol.*). But the diadem which was a sign of dignity was given to the pontiffs alone, as the mitre is now.

Reply Obj. 3. The power of the ministers resides in the bishop as their source, but not in the priest, for he does not confer those Orders. Wherefore the bishop, rather than the priest, wears those vestments.

Reply Obj. 4. Instead of the ephod, they wear the stole, which is intended for the same signification as the ephod.

Reply Obj. 5. The pallium takes the place of the rational.

Reply Obj. 6. Instead of that plate our pontiff wears the cross, as Innocent III. says (*De Myst. Miss.* i.), just as the breeches are replaced by the sandals, the linen garment by the alb, the belt by the girdle, the long or talaric garment by the tunic, the ephod by the amice, the rational by the pallium, the diadem by the mitre.

Reply Obj. 7. Although he has not another kind of power he has the same power more fully; and so in order to designate this perfection, he receives the pallium which surrounds him on all sides.

Reply Obj. 8. The Roman Pontiff does not use a pastoral staff because Peter sent his to restore to life a certain disciple who afterwards became bishop of Trèves. Hence in the diocese of Trèves the Pope carries a crozier but not elsewhere. Or else it is a sign of his not having a restricted power denoted by the curve of the staff.

QUESTION XLI.

OF THE SACRAMENT OF MATRIMONY AS DIRECTED TO AN OFFICE OF NATURE.

(*In Four Articles.*)

In the next place we must consider matrimony. We must treat of it (1) as directed to an office of nature; (2) as a sacrament; (3) as considered absolutely and in itself. Under the first head there are four points of inquiry: (1) Whether it is of natural law? (2) Whether it is a matter of precept? (3) Whether its act is lawful? (4) Whether its act can be meritorious?

First Article.

WHETHER MATRIMONY IS OF NATURAL LAW?

We proceed thus to the First Article:—

Objection 1. It would seem that matrimony is not natural. Because the natural law is what nature has taught all animals. But in other animals the sexes are united without matrimony. Therefore matrimony is not of natural law.

Obj. 2. Further, That which is of natural law is found in all men with regard to their every state. But matrimony was not in every state of man, for as Tully says (*De Inv. Rhet.*), *at the beginning men were savages and then no man knew his own children, nor was he bound by any marriage tie,* wherein matrimony consists. Therefore it is not natural.

Obj. 3. Further, Natural things are the same among all. But matrimony is not in the same way among all, since its practice varies according to the various laws. Therefore it is not natural.

Obj. 4. Further, those things without which the intention of nature can be maintained would seem not to be natural. But nature intends the preservation of the species by generation which is possible without matrimony, as in the case of fornicators. Therefore matrimony is not natural.

On the contrary, At the commencement of the *Digests* (l. *Juri Operam,* ff. De Just. et Jure.) it is stated: *It is natural,* etc. . . . *hence comes the union of male and female, which we call matrimony.*

Further, The Philosopher (*Ethic.* viii. 12) says that *man is an animal more inclined by nature to connubial than political society.* But *man is naturally a political and gregarious animal,* as the same author asserts (*Polit.* i. 2). Therefore he is naturally inclined to connubial union, and thus the conjugal union or matrimony is natural.

I answer that, A thing is said to be natural in two ways. First, as resulting of necessity from the principles of nature; thus upward movement is natural to fire. In this way matrimony is not natural, nor are any of those things that come to pass at the intervention or motion of the free-will. Secondly, that is said to be natural to which nature inclines, although it comes to pass through the intervention of the free-will; thus acts of virtue and the virtues themselves are called natural; and in this way matrimony is natural, because natural reason inclines thereto in two ways. First, in relation to the principal end of matrimony, namely the good of the offspring. For nature intends not only the begetting of offspring, but also its education and development until it reach the perfect state of man as man, and that is the state of virtue. Hence, according to the Philosopher (*Ethic.* viii. 11, 12), we derive three things from our parents, namely *existence, nourishment,* and *education.* Now a child cannot be brought up and instructed unless it have certain and definite parents, and this would not be the case unless there were a tie between the man and a definite woman, and it is in this that matrimony consists. Secondly, in relation to the secondary end of matrimony, which is the mutual services which married persons render

one another in household matters. For just as natural reason dictates that men should live together, since one is not self-sufficient in all things concerning life, for which reason man is described as being naturally inclined to political society, so too among those works that are necessary for human life some are becoming to men, others to women. Wherefore nature inculcates that society of man and woman which consists in matrimony. These two reasons are given by the Philosopher (*Ethic.* viii., *loc. cit.*).

Reply Obj. 1. Man's nature inclines to a thing in two ways. In one way, because that thing is becoming to the generic nature, and this is common to all animals; in another way because it is becoming to the nature of the difference, whereby the human species in so far as it is rational overflows the genus; such is an act of prudence or temperance. And just as the generic nature, though one in all animals, yet is not in all in the same way, so neither does it incline in the same way in all, but in a way befitting each one. Accordingly man's nature inclines to matrimony on the part of the difference, as regards the second reason given above; wherefore the Philosopher (*loc. cit.; Polit.* i.) gives this reason in men over other animals; but as regards the first reason it inclines on the part of the genus; wherefore he says that the begetting of children is common to all animals. Yet nature does not incline thereto in the same way in all animals; since there are animals whose offspring are able to seek food immediately after birth, or are sufficiently fed by their mother; and in these there is no tie between male and female; whereas in those whose offspring needs the support of both parents, although for a short time, there is a certain tie, as may be seen in certain birds. In man, however, since the child needs the parents' care for a long time, there is a very great tie between male and female, to which tie even the generic nature inclines.

Reply Obj. 2. The assertion of Tully may be true of some particular nation, provided we understand it as referring to the proximate beginning of that nation when it became a nation distinct from others; for that to which natural

reason inclines is not realised in all things, and this statement is not universally true, since Holy Writ states that there has been matrimony from the beginning of the human race.

Reply Obj. 3. According to the Philosopher (*Ethic.* vii.) *human nature is not unchangeable as the Divine nature is.* Hence things that are of natural law vary according to the various states and conditions of men; although those which naturally pertain to things Divine nowise vary.

Reply Obj. 4. Nature intends not only being in the offspring, but also perfect being, for which matrimony is necessary, as shown above.

SECOND ARTICLE.

WHETHER MATRIMONY COMES UNDER A PRECEPT?

We proceed thus to the Second Article:—

Objection 1. It would seem that matrimony still comes under a precept. For a precept is binding so long as it is not recalled. But the primary institution of matrimony came under a precept, as stated in the text (iv. *Sent.* D. 26); nor do we read anywhere that this precept was recalled, but rather that it was confirmed (Matth. xix. 6): *What . . . God hath joined together let no man put asunder.* Therefore matrimony still comes under a precept.

Obj. 2. Further, The precepts of natural law are binding in respect of all time. Now matrimony is of natural law, as stated above (A. 1). Therefore, etc.

Obj. 3. Further, The good of the species is better than the good of the individual, *for the good of the State is more Godlike than the good of one man* (*Ethic.* i. 2). Now the precept given to the first man concerning the preservation of the good of the individual by the act of the nutritive power is still in force. Much more therefore does the precept concerning matrimony still hold, since it refers to the preservation of the species.

Obj. 4. Further, Where the reason of an obligation remains the same, the obligation must remain the same. Now the

reason why men were bound to marry in olden times was lest the human race should cease to multiply. Since then the result would be the same, if each one were free to abstain from marriage, it would seem that matrimony comes under a precept.

On the contrary, It is written (1 Cor. vii. 38): *He that giveth not his virgin in marriage, doth better,** namely than he that giveth her in marriage. Therefore the contract of marriage is not now a matter of precept.

Further, No one deserves a reward for breaking a precept. Now a special reward, namely the aureole, is due to virgins.† Therefore matrimony does not come under a precept.

I answer that, Nature inclines to a thing in two ways. In one way as to that which is necessary for the perfection of the individual, and such an obligation is binding on each one, since natural perfections are common to all. In another way it inclines to that which is necessary for the perfection of the community; and since there are many things of this kind, one of which hinders another, such an inclination does not bind each man by way of precept; else each man would be bound to husbandry and building and to such offices as are necessary to the human community; but the inclination of nature is satisfied by the accomplishment of those various offices by various individuals. Accordingly, since the perfection of the human community requires that some should devote themselves to the contemplative life to which marriage is a very great obstacle, the natural inclination to marriage is not binding by way of precept even according to the philosophers. Hence Theophrastus proves that it is not advisable for a wise man to marry, as Jerome relates (*Contra Jovin.* i.).

Reply Obj. 1. This precept has not been recalled, and yet it is not binding on each individual, for the reason given above, except at that time when the paucity of men required each one to betake himself to the begetting of children.

* Vulg.,—*He that giveth his virgin in marriage doth well, and he that giveth her not doth better.*

† Cf. Q. XCVI., A. 5.

The *Replies* to *Objections* 2 and 3 are clear from what has been said.

Reply Obj. 4. Human nature has a general inclination to various offices and acts, as already stated. But since it is variously in various subjects, as individualized in this or that one, it inclines one subject more to one of those offices, and another subject more to another, according to the difference of temperament of various individuals. And it is owing to this difference, as well as to Divine providence which governs all, that one person chooses one office such as husbandry, and another person another. And so it is too that some choose the married life and some the contemplative. Wherefore no danger threatens.

THIRD ARTICLE.

WHETHER THE MARRIAGE ACT IS LAWFUL?

We proceed thus to the Third Article:—

Objection 1. It would seem that the marriage act is sinful. For it is written (1 Cor. vii. 29): *That they . . . who have wives, be as if they had none.* But those who are not married do not perform the marriage act. Therefore even those who are married sin in that act.

Obj. 2. Further, *Your iniquities have divided between you and your God.* Now the marriage act divides man from God, wherefore the people who were to see God (Exod. xix. 11) were commanded not to go near their wives (*ibid.* 20); and Jerome says (*Ep. ad Ageruch.: Contra Jovin.* i. 18) that in the marriage act *the Holy Ghost touches not the hearts of the prophets.* Therefore it is sinful.

Obj. 3. Further, That which is shameful in itself can by no means be well done. Now the marriage act is always connected with concupiscence, which is always shameful. Therefore it is always sinful.

Obj. 4. Further, Nothing is the object of excuse save sin. Now the marriage act needs to be excused by the marriage blessings, as the Master says (iv. *Sent.* D. 26). Therefore it is a sin.

Obj. 5. Further, Things like in species are judged alike. But marriage intercourse is of the same species as the act of adultery, since its end is the same, namely the human species. Therefore since the act of adultery is a sin, the marriage act is likewise.

Obj. 6. Further, Excess in the passions corrupts virtue. Now there is always excess of pleasure in the marriage act, so much so that it absorbs the reason which is man's principal good, wherefore the Philosopher says (*Ethic.* vii. 11) that *in that act it is impossible to understand anything.* Therefore the marriage act is always a sin.

On the contrary, It is written (1 Cor. vii. 28): *If a virgin marry she hath not sinned,* and (1 Tim. v. 14): *I will . . . that the younger should marry,* and *bear children.* But there can be no bearing of children without carnal union. Therefore the marriage act is not a sin; else the Apostle would not have willed it.

Further, No sin is a matter of precept. But the marriage act is a matter of precept (1 Cor. vii. 3): *Let the husband render the debt to his wife.* Therefore it is not a sin.

I answer that, If we suppose the corporeal nature to be created by the good God, we cannot hold that those things which pertain to the preservation of the corporeal nature and to which nature inclines, are altogether evil; wherefore, since the inclination to beget an offspring whereby the specific nature is preserved is from nature, it is impossible to maintain that the act of begetting children is altogether unlawful, so that it be impossible to find the mean of virtue therein; unless we suppose, as some are mad enough to assert, that corruptible things were created by the evil God, whence perhaps the opinion mentioned in the text is derived (iv. *Sent.* D. 26); wherefore this is a most wicked heresy.

Reply Obj. 1. By these words the Apostle did not forbid the marriage, as neither did he forbid the possession of things when he said (*loc. cit., verse* 31): *They that use this world* (let them be) *as if they used it not.* In each case he forbade enjoyment;* which is clear from the way in

* *Fruitionem,* i.e. enjoyment of a thing sought as one's last end.

which he expresses himself; for he did not say *let them not use it*, or *let them not have them*, but let them be *as if they used it not* and *as if they had none*.

Reply Obj. 2. We are united to God both by the habit of grace and by the act of contemplation and love. Therefore whatever severs the former of these unions is always a sin, but not always that which severs the latter, since a lawful occupation about lower things distracts the mind so that it is not fit for actual union with God; and this is especially the case in carnal intercourse wherein the mind is withheld by the intensity of pleasure. For this reason those who have to contemplate Divine things or handle sacred things are enjoined not to have to do with their wives for that particular time; and it is in this sense that the Holy Ghost, as regards the actual revelation of hidden things, did not touch the hearts of the prophets at the time of the marriage act.

Reply Obj. 3. The shamefulness of concupiscence that always accompanies the marriage act is a shamefulness not of guilt, but of punishment inflicted for the first sin, inasmuch as the lower powers and the members do not obey reason. Hence the argument does not prove.

Reply Obj. 4. Properly speaking, a thing is said to be excused when it has some appearance of evil, and yet is not evil, or not as evil as it seems, because some things excuse wholly, others in part. And since the marriage act, by reason of the corruption of concupiscence, has the appearance of an inordinate act, it is wholly excused by the marriage blessing, so as not to be a sin.

Reply Obj. 5. Although they are the same as to their natural species, they differ as to their moral species, which differs in respect of one circumstance, namely intercourse with one's wife, and with another than one's wife; just as to kill a man by assault or by justice differentiates the moral species, although the natural species is the same; and yet the one is lawful and the other unlawful.

Reply Obj. 6. The excess of passions that corrupts virtue not only hinders the act of reason, but also destroys the order of reason. The intensity of pleasure in the marriage

act does not do this, since, although for the moment man is not being directed, he was previously directed by his reason.

Fourth Article.

whether the marriage act is meritorious?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that the marriage act is not meritorious. For Chrysostom* says in his commentary on Matthew: *Although marriage brings no punishment to those who use it, it affords them no meed.* Now merit bears a relation to meed. Therefore the marriage act is not meritorious.

Obj. 2. Further, To refrain from what is meritorious deserves not praise. Yet virginity whereby one refrains from marriage is praiseworthy. Therefore the marriage act is not meritorious.

Obj. 3. Further, He who avails himself of an indulgence granted him, avails himself of a favour received. But a man does not merit by receiving a favour. Therefore the marriage act is not meritorious.

Obj. 4. Further, Merit, like virtue, consists in difficulty. But the marriage act affords not difficulty but pleasure. Therefore it is not meritorious.

Obj. 5. Further, That which cannot be done without venial sin is never meritorious, for a man cannot both merit and demerit at the same time. Now there is always a venial sin in the marriage act, since even the first movement in suchlike pleasures is a venial sin. Therefore the aforesaid act cannot be meritorious.

On the contrary, Every act whereby a precept is fulfilled is meritorious if it be done from charity. Now such is the marriage act, for it is said (1 Cor. vii. 3): *Let the husband render the debt to his wife.* Therefore, etc.

Further, Every act of virtue is meritorious. Now the aforesaid act is an act of justice, for it is called the rendering of a debt. Therefore it is meritorious.

* *Hom.* i. in the *Opus Imperfectum,* falsely ascribed to S. John Chrysostom.

I answer that, Since no act proceeding from a deliberate will is indifferent, as stated in the Second Book (ii. *Sent.* D. 40, Q. I., A. 3; I.-II., Q. XVIII., A. 9), the marriage act is always either sinful or meritorious in one who is in a state of grace. For if the motive for the marriage act be a virtue, whether of justice that they may render the debt, or of religion, that they may beget children for the worship of God, it is meritorious. But if the motive be lust, yet not excluding the marriage blessings, namely that he would by no means be willing to go to another woman, it is a venial sin; while if he exclude the marriage blessings, so as to be disposed to act in like manner with any woman, it is a mortal sin. And nature cannot move without being either directed by reason, and thus it will be an act of virtue, or not so directed, and then it will be an act of lust.

Reply Obj. 1. The root of merit, as regards the essential reward, is charity itself; but as regards an accidental reward, the reason for merit consists in the difficulty of an act; and thus the marriage act is not meritorious except in the first way.

Reply Obj. 2. The difficulty required for merit of the accidental reward is a difficulty of labour, but the difficulty required for the essential reward is the difficulty of observing the mean, and this is the difficulty in the marriage act.

Reply Obj. 3. First movements in so far as they are venial sins are movements of the appetite to some inordinate object of pleasure. This is not the case in the marriage act, and consequently the argument does not prove.

QUESTION XLII.

OF MATRIMONY AS A SACRAMENT.

(*In Four Articles.*)

We must next consider matrimony as a sacrament. Under this head there are four points of inquiry: (1) Whether matrimony is a sacrament? (2) Whether it ought to have been instituted before sin was committed? (3) Whether it confers grace? (4) Whether carnal intercourse belongs to the integrity of matrimony?

First Article.

WHETHER MATRIMONY IS A SACRAMENT?

We proceed thus to the First Article:—

Objection 1. It would seem that matrimony is not a sacrament. For every sacrament of the New Law has a form that is essential to the sacrament. But the blessing given by the priest at a wedding is not essential to matrimony. Therefore it is not a sacrament.

Obj. 2. Further, A sacrament according to Hugh (*De Sacram.* i.) is a material element. But matrimony has not a material element for its matter. Therefore it is not a sacrament.

Obj. 3. Further, The sacraments derive their efficacy from Christ's Passion. But matrimony, since it has pleasure annexed to it, does not conform man to Christ's passion, which was painful. Therefore it is not a sacrament.

Obj. 4. Further, Every sacrament of the New Law causes that which it signifies. Yet matrimony does not cause the

union of Christ with the Church, which union it signifies. Therefore matrimony is not a sacrament.

Obj. 5. Further, In the other sacraments there is something which is reality and sacrament. But this is not to be found in matrimony, since it does not imprint a character, else it would not be repeated. Therefore it is not a sacrament.

On the contrary, It is written (Eph. v. 32): *This is a great sacrament.* Therefore, etc.

Further, A sacrament is the sign of a sacred thing. But such is Matrimony. Therefore, etc.

I answer that, A sacrament denotes a sanctifying remedy against sin offered to man under sensible signs.* Wherefore since this is the case in matrimony, it is reckoned among the sacraments.

Reply Obj. 1. The words whereby the marriage consent is expressed are the form of this sacrament, and not the priest's blessing, which is a sacramental.

Reply Obj. 2. The sacrament of Matrimony, like that of Penance, is perfected by the act of the recipient. Wherefore just as Penance has no other matter than the sensible acts themselves, which take the place of the material element, so it is in Matrimony.

Reply Obj. 3. Although Matrimony is not conformed to Christ's passion as regards pain, it is as regards charity, whereby He suffered for the Church who was to be united to Him as His spouse.

Reply Obj. 4. The union of Christ with the Church is not the reality contained in this sacrament, but is the reality signified and not contained,—and no sacrament causes a reality of that kind,—but it has another both contained and signified which it causes, as we shall state further on (*ad* 5). The Master, however (iv. *Sent.* D. 26), asserts that it is a non-contained reality, because he was of opinion that Matrimony has no reality contained therein.

Reply Obj. 5. In this sacrament also those three things†

* Cf. P. III., Q. LXI., A. 1; Q. LXV., A. 1.

† Cf. P. III., Q. LXVI., A. 1.

are to be found, for the acts externally apparent are the sacrament only; the bond between husband and wife resulting from those acts is reality and sacrament; and the ultimate reality contained is the effect of this sacrament, while the non-contained reality is that which the Master assigns (*loc. cit.*).

Second Article.

WHETHER THIS SACRAMENT OUGHT TO HAVE BEEN INSTITUTED BEFORE SIN WAS COMMITTED?

We proceed thus to the Second Article :—

Objection 1. It would seem that Matrimony ought not to have been instituted before sin. Because that which is of natural law needs not to be instituted. Now such is Matrimony, as stated above (Q. XLI., A. 1). Therefore it ought not to have been instituted.

Obj. 2. Further, Sacraments are medicines against the disease of sin. But a medicine is not made ready except for an actual disease. Therefore it should not have been instituted before sin.

Obj. 3. Further, One institution suffices for one thing. Now Matrimony was instituted also after sin, as stated in the text (iv. *Sent.* D. 26). Therefore it was not instituted before sin.

Obj. 4. Further, The institution of a sacrament must come from God. Now before sin, the words relating to Matrimony were not definitely said by God but by Adam; the words which God uttered (Gen. i. 22), *Increase and multiply*, were addressed also to the brute creation where there is no marriage. Therefore Matrimony was not instituted before sin.

Obj. 5. Further, Matrimony is a sacrament of the New Law. But the sacraments of the New Law took their origin from Christ. Therefore it ought not to have been instituted before sin.

On the contrary, It is said (Matth. xix. 4): *Have ye not read that He Who made man from the beginning 'made them male and female'?*

Further, Matrimony was instituted for the begetting of children. But the begetting of children was necessary to man before sin. Therefore it behoved Matrimony to be instituted before sin.

I answer that, Nature inclines to marriage with a certain good in view, which good varies according to the different states of man, wherefore it was necessary for matrimony to be variously instituted in the various states of man in reference to that good. Consequently matrimony as directed to the begetting of children, which was necessary even when there was no sin, was instituted before sin; according as it affords a remedy for the wound of sin, it was instituted after sin at the time of the natural law; its institution belongs to the Mosaic Law as regards personal disqualifications; and it was instituted in the New Law in so far as it represents the mystery of Christ's union with the Church, and in this respect it is a sacrament of the New Law. As regards other advantages resulting from matrimony, such as the friendship and mutual services which husband and wife render one another, its institution belongs to the civil law. Since, however, a sacrament is essentially a sign and a remedy, it follows that the nature of sacrament applies to matrimony as regards the intermediate institution; that it is fittingly intended to fulfil an office of nature as regards the first institution; and, as regards the last-mentioned institution, that it is directed to fulfil an office of society.

Reply Obj. 1. Things which are of natural law in a general way, need to be instituted as regards their determination which is subject to variation according to various states; just as it is of natural law that evil-doers be punished, but that such and such a punishment be appointed for such and such a crime is determined by positive law.

Reply Obj. 2. Matrimony is not only for a remedy against sin, but is chiefly for an office of nature; and thus it was instituted before sin, not as intended for a remedy.

Reply Obj. 3. There is no reason why matrimony should not have had several institutions corresponding to the

various things that had to be determined in connexion with marriage. Hence these various institutions are not of the same thing in the same respect.

Reply Obj. 4. Before sin matrimony was instituted by God, when He fashioned a helpmate for man out of his rib, and said to them: *Increase and multiply.* And although this was said also to the other animals, it was not to be fulfilled by them in the same way as by men. As to Adam's words, he uttered them inspired by God to understand that the institution of marriage was from God.

Reply Obj. 5. As was clearly stated, matrimony was not instituted before Christ as a sacrament of the New Law.

Third Article.

whether matrimony confers grace?

We proceed thus to the Third Article :—

Objection 1. It would seem that matrimony does not confer grace. For, according to Hugh (*De Sacram.* i.) *the sacraments, by virtue of their sanctification, confer an invisible grace.* But matrimony has no sanctification essential to it. Therefore grace is not conferred therein.

Obj. 2. Further, Every sacrament that confers grace confers it by virtue of its matter and form. Now the acts which are the matter in this sacrament are not the cause of grace (for it would be the heresy of Pelagius to assert that our acts cause grace); and the words expressive of consent are not the cause of grace, since no sanctification results from them. Therefore grace is by no means given in matrimony.

Obj. 3. Further, The grace that is directed against the wound of sin is necessary to all who have that wound. Now the wound of concupiscence is to be found in all. Therefore, if grace were given in matrimony against the wound of concupiscence, all men ought to contract marriage, and it would be very stupid to refrain from matrimony.

Obj. 4. Further, Sickness does not seek a remedy where it finds aggravation. Now concupiscence is aggravated

by concupiscence, because, according to the Philosopher (*Ethic.* iii. 12), *the desire of concupiscence is insatiable, and is increased by congenial actions.* Therefore it would seem that grace is not conferred in matrimony, as a remedy for concupiscence.

On the contrary, Definition and thing defined should be convertible. Now causality of grace is included in the definition of a sacrament. Since then matrimony is a sacrament, it is a cause of grace.

Further, Augustine says (*De Bono Viduit.* viii.; *Gen. ad lit.* ix. 7) that *matrimony affords a remedy to the sick.* But it is not a remedy except in so far as it has some efficacy. Therefore it has some efficacy for the repression of concupiscence. Now concupiscence is not repressed except by grace. Therefore grace is conferred therein.

I answer that, There have been three opinions on this point. For some said that matrimony is nowise the cause of grace, but only a sign thereof. But this cannot be maintained, for in that case it would in no respect surpass the sacraments of the Old Law. Wherefore there would be no reason for reckoning it among the sacraments of the New Law; since even in the Old Law by the very nature of the act it was able to afford a remedy to concupiscence lest the latter run riot when held in too strict restraint. Hence others said that grace is conferred therein as regards the withdrawal from evil, because the act is excused from sin, for it would be a sin apart from matrimony. But this would be too little, since it had this also in the Old Law. And so they say that it makes man withdraw from evil, by restraining the concupiscence lest it tend to something outside the marriage blessings, but that this grace does not enable a man to do good works. But this cannot be maintained, since the same grace hinders sin and inclines to good, just as the same heat expels cold and gives heat. Hence others say that matrimony, inasmuch as it is contracted in the faith of Christ, is able to confer the grace which enables us to do those works which are required in matrimony; and this is more probable, since wherever God gives the

faculty to do a thing, He gives also the helps whereby man is enabled to make becoming use of that faculty; thus it is clear that to all the soul's powers there correspond bodily members by which they can proceed to act. Therefore, since in matrimony man receives by Divine institution the faculty to use his wife for the begetting of children, he also receives the grace without which he cannot becomingly do so; just as we have said of the sacrament of Orders (Q. XXXV., A. 1). And thus this grace which is given is the last thing contained in this sacrament.

Reply Obj. 1. Just as the baptismal water by virtue of its contact with Christ's body* is able to *touch the body and cleanse the heart*,† so is matrimony able to do so through Christ having represented it by His Passion, and not principally through any blessing of the priest.

Reply Obj. 2. Just as the water of Baptism together with the form of words results immediately not in the infusion of grace, but the imprinting of the character, so the outward acts and the words expressive of consent directly effect a certain tie which is the sacrament of matrimony; and this tie by virtue of its Divine institution works dispositively‡ to the infusion of grace.

Reply Obj. 3. This argument would hold if no more efficacious remedy could be employed against the disease of concupiscence; but a yet more powerful remedy is found in spiritual works and mortification of the flesh by those who make no use of matrimony.

Reply Obj. 4. A remedy can be employed against concupiscence in two ways. First, on the part of concupiscence by repressing it in its root, and thus matrimony affords a remedy by the grace given therein. Secondly, on the part of its act, and this in two ways: first, by depriving the act to which concupiscence inclines of its outward shamefulness, and this is done by the marriage blessings which

* Cf. P. III., Q. LXVI., A. 3, *ad* 4.

† S. Augustine, *Tract.* lxxx. *in Joan.*

‡ Cf. Q. XVIII., A. 1., where S. Thomas uses the same expression; and Editor's notes at the beginning of the Supplement and on that *Article*.

justify carnal concupiscence; secondly, by hindering the shameful act, which is done by the very nature of the act; because concupiscence, being satisfied by the conjugal act, does not incline so much to other wickedness. For this reason the Apostle says (1 Cor. vii. 9): *It is better to marry than to burn.* For though the works congenial to concupiscence are in themselves of a nature to increase concupiscence, yet in so far as they are directed according to reason they repress concupiscence, because like acts result in like dispositions and habits.

Fourth Article.

WHETHER CARNAL INTERCOURSE IS AN INTEGRAL PART OF THIS SACRAMENT?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that carnal intercourse is an integral part of marriage. For at the very institution of marriage it was declared (Gen. ii. 24): *They shall be two in one flesh.* Now this is not brought about save by carnal intercourse. Therefore it is an integral part of marriage.

Obj. 2. Further, That which belongs to the signification of a sacrament is necessary for the sacrament, as we have stated above (A. 2; Q. IX., A. 1). Now carnal intercourse belongs to the signification of matrimony, as stated in the text (iv. *Sent.* D. 26). Therefore it is an integral part of the sacrament.

Obj. 3. Further, This sacrament is directed to the preservation of the species. But the species cannot be preserved without carnal intercourse. Therefore it is an integral part of the sacrament.

Obj. 4. Further, Matrimony is a sacrament inasmuch as it affords a remedy against concupiscence; according to the Apostle's saying (1 Cor. vii. 9): *It is better to marry than to burn.* But it does not afford this remedy to those who have no carnal intercourse. Therefore the same conclusion follows as before.

On the contrary, There was matrimony in Paradise, and

yet there was no carnal intercourse. Therefore carnal intercourse is not an integral part of matrimony.

Further, A sacrament by its very name denotes a sanctification. But matrimony is holier without carnal intercourse according to the text (iv. *Sent.* D. 26). Therefore carnal intercourse is not necessary for the sacrament.

I answer that, Integrity is twofold. One regards the primal perfection consisting in the very essence of a thing; the other regards the secondary perfection consisting in operation. Since then carnal intercourse is an operation or use of marriage which gives the faculty for that intercourse, it follows that carnal intercourse belongs to the latter, and not to the former integrity of marriage.*

Reply Obj. 1. Adam expressed the integrity of marriage in regard to both perfections, because a thing is known by its operation.

Reply Obj. 2. Signification of the thing contained is necessary for the sacrament. Carnal intercourse belongs not to this signification, but to the thing not contained, as appears from what was said above (A. 1, *ad* 4, 5).

Reply Obj. 3. A thing does not reach its end except by its own act. Wherefore, from the fact that the end of matrimony is not attained without carnal intercourse, it follows that it belongs to the second and not to the first integrity.

Reply Obj. 4. Before carnal intercourse marriage is a remedy by virtue of the grace given therein, although not by virtue of the act, which belongs to the second integrity.

* Cf. P. III., Q. XXIX., A. 2.

QUESTION XLIII.

OF MATRIMONY WITH REGARD TO THE BETROTHAL.

(*In Three Articles.*)

In the next place we must consider matrimony absolutely; and here we must treat (1) of the betrothal; (2) of the nature of matrimony; (3) of its efficient cause, namely the consent; (4) of its blessings; (5) of the impediments thereto; (6) of second marriages; (7) of certain things annexed to marriage.

Under the first head there are three points of inquiry: (1) What is the betrothal? (2) Who can contract a betrothal? (3) Whether a betrothal can be cancelled?

First Article.

WHETHER A BETROTHAL IS A PROMISE OF FUTURE MARRIAGE?

We proceed thus to the First Article :—

Objection 1. It would seem that a betrothal is not rightly defined *a promise of future marriage,* as expressed in the words of Pope Nicholas I. (*Resp. ad Consul. Bulgar.*, cap. iii.). For as Isidore says (*Etym.* iv.), *a man is betrothed not by a mere promise, but by giving his troth* (*spondet*) *and providing sureties* (*sponsores*). Now a person is said to be betrothed by reason of his betrothal. Therefore it is wrongly described as a promise.

Obj. 2. Further, Whoever promises a thing must be compelled to fulfil his promise. But those who have contracted a betrothal are not compelled by the Church to fulfil the marriage. Therefore a betrothal is not a promise.

Obj. 3. Further, Sometimes a betrothal does not consist

of a mere promise, but an oath is added, as also certain pledges. Therefore seemingly it should not be defined as a mere promise.

Obj. 4. Further, Marriage should be free and absolute. But a betrothal is sometimes expressed under a condition even of money to be received. Therefore it is not fittingly described as a promise of marriage.

Obj. 5. Further, Promising about the future is blamed in James iv. (*verse* 13 *seqq.*). But there should be nothing blameworthy about the sacraments. Therefore one ought not to make a promise of future marriage.

Obj. 6. Further, No man is called a spouse except on account of his espousals. But a man is said to be a spouse on account of actual marriage, according to the text (iv. *Sent.* D. 27). Therefore espousals are not always a promise of future marriage.

I answer that, Consent to conjugal union if expressed in words of the future does not make a marriage, but a promise of marriage; and this promise is called *a betrothal from plighting one's troth,* as Isidore says (*loc. cit.*). For before the use of writing-tablets, they used to give pledges of marriage, by which they plighted their mutual consent under the marriage code, and they provided guarantors. This promise is made in two ways, namely absolutely, or conditionally. Absolutely, in four ways: firstly, a mere promise, by saying: *I will take thee for my wife,* and conversely; secondly, by giving betrothal pledges, such as money and the like; thirdly, by giving an engagement ring; fourthly, by the addition of an oath. If, however, this promise be made conditionally, we must draw a distinction; for it is either an honourable condition, for instance if we say: *I will take thee, if thy parents consent,* and then the promise holds if the condition is fulfilled, and does not hold if the condition is not fulfilled; or else the condition is dishonourable, and this in two ways: for either it is contrary to the marriage blessings, as if we were to say: *I will take thee if thou promise means of sterility,* and then no betrothal is contracted; or else it is not contrary to the marriage

blessings, as were one to say: *I will take thee if thou consent to my thefts*, and then the promise holds, but the condition should be removed.

Reply Obj. 1. The betrothal itself and giving of sureties are a ratification of the promise, wherefore it is denominated from these as from that which is more perfect.

Reply Obj. 2. By this promise one party is bound to the other in respect of contracting marriage; and he who fulfils not his promise sins mortally, unless a lawful impediment arise; and the Church uses compulsion in the sense that she enjoins a penance for the sin. But he is not compelled by sentence of the court, because compulsory marriages are wont to have evil results; unless the parties be bound by oath, for then he ought to be compelled, in the opinion of some, although others think differently on account of the reason given above, especially if there be fear of one taking the other's life.

Reply Obj. 3. Such things are added only in confirmation of the promise, and consequently they are not distinct from it.

Reply Obj. 4. The condition that is appended does not destroy the liberty of marriage; for if it be unlawful, it should be renounced; and if it be lawful, it is either about things that are good simply, as were one to say, *I will take thee, if thy parents consent*, and such a condition does not destroy the liberty of the betrothal, but gives it an increase of rectitude; or else it is about things that are useful, as were one to say: *I will marry thee if thou pay me a hundred pounds*, and then this condition is appended, not as asking a price for the consent of marriage, but as referring to the promise of a dowry; so that the marriage does not lose its liberty. Sometimes, however, the condition appended is the payment of a sum of money by way of penalty, and then, since marriage should be free, such a condition does not hold, nor can such a penalty be exacted from a person who is unwilling to fulfil the promise of marriage.

Reply Obj. 5. James does not intend to forbid altogether the making of promises about the future, but the making

of promises as though one were certain of one's life; hence he teaches that we ought to add the condition: *If the Lord will*, which, though it be not expressed in words, ought nevertheless to be impressed on the heart.

Reply Obj. 6. In marriage we may consider both the marriage union and the marriage act; and on account of his promise of the first as future a man is called a *spouse* from his having contracted his espousals by words expressive of the future; but from the promise of the second a man is called a *spouse*, even when the marriage has been contracted by words expressive of the present, because by this very fact he promises (*spondet*) the marriage act. However, properly speaking, espousals are so called from the promise (*sponsione*) in the first sense, because espousals are a kind of sacramental annexed to matrimony, as exorcism to baptism.

Second Article.

whether seven years is fittingly assigned as the age for betrothal?

We proceed thus to the Second Article :—

Objection 1. It would seem that seven years is not fittingly assigned as the age for betrothal. For a contract that can be formed by others does not require discretion in those whom it concerns. Now a betrothal can be arranged by the parents without the knowledge of either of the persons betrothed. Therefore a betrothal can be arranged before the age of seven years as well as after.

Obj. 2. Further, Just as some use of reason is necessary for the contract of betrothal, so is there for the consent to mortal sin. Now, as Gregory says (*Dial.* iv.), a boy of five years of age was carried off by the devil on account of the sin of blasphemy. Therefore a betrothal can take place before the age of seven years.

Obj. 3. Further, A betrothal is directed to marriage. But for marriage the same age is not assigned to boy and girl.

Obj. 4. Further, One can become betrothed as soon as

future marriage can be agreeable to one. Now signs of this agreeableness are often apparent in boys before the age of seven. Therefore they can become betrothed before that age.

Obj. 5. Further, If persons become betrothed before they are seven years old, and subsequently after the age of seven and before the age of maturity renew their promise in words expressive of the present, they are reckoned to be betrothed. Now this is not by virtue of the second contract, since they intend to contract not betrothal but marriage. Therefore it is by the virtue of the first; and thus espousals can be contracted before the age of seven.

Obj. 6. Further, When a thing is done by many persons in common, if one fails he is supplied by another, as in the case of those who row a boat. Now the contract of betrothal is an action common to the contracting parties. Therefore if one be of mature age, he can contract a betrothal with a girl who is not seven years old, since the lack of age in one is more than counterbalanced in the other.

Obj. 7. Further, Those who at about the age of puberty, but before it, enter into the marriage contract by words expressive of the present are reputed to be married. Therefore in like manner if they contract marriage by words expressive of the future, before yet close on the age of puberty, they are to be reputed as betrothed.

I answer that, The age of seven years is fixed reasonably enough by law for the contracting of betrothals, for since a betrothal is a promise of the future, as already stated (A. 1), it follows that they are within the competency of those who can make a promise in some way, and this is only for those who can have some foresight of the future, and this requires the use of reason, of which three degrees are to be observed, according to the Philosopher (*Ethic.* i. 4). The first is when a person neither understands by himself nor is able to learn from another; the second stage is when a man can learn from another but is incapable by himself of consideration and understanding; the third degree is when a man is both able to learn from another and to

consider by himself. And since reason develops in man by little and little, in proportion as the movement and fluctuation of the humours is calmed, man reaches the first stage of reason before his seventh year; and consequently during that period he is unfit for any contract, and therefore for betrothal. But he begins to reach the second stage at the end of his first seven years, wherefore children at that age are sent to school. But man begins to reach the third stage at the end of his second seven years, as regards things concerning his person, when his natural reason develops; but as regards things outside his person, at the end of his third seven years. Hence before his first seven years a man is not fit to make any contract, but at the end of that period he begins to be fit to make certain promises for the future, especially about those things to which natural reason inclines us more, though he is not fit to bind himself by a perpetual obligation, because as yet he has not a firm will. Hence at that age betrothals can be contracted. But at the end of the second seven years he can already bind himself in matters concerning his person, either to religion or to wedlock. And after the third seven years he can bind himself in other matters also; and according to the laws he is given the power of disposing of his property after his twenty-second year.

Reply Obj. 1. If the parties are betrothed by another person before they reach the age of puberty, either of them or both can demur; wherefore in that case the betrothal does not take effect, so that neither does any affinity result therefrom. Hence a betrothal made between certain persons by some other takes effect, in so far as those between whom the betrothal is arranged do not demur when they reach the proper age, whence they are understood to consent to what others have done.

Reply Obj. 2. Some say that the boy of whom Gregory tells this story was not lost, and that he did not sin mortally; and that this vision was for the purpose of making the father sorrowful, for he had sinned in the boy through failing to correct him. But this is contrary to the express

intention of Gregory, who says (*loc. cit.*) that *the boy's father having neglected the soul of his little son, fostered no little sinner for the flames of hell.* Consequently it must be said that for a mortal sin it is sufficient to give consent to something present, whereas in a betrothal the consent is to something future; and greater discretion of reason is required for looking to the future than for consenting to one present act. Wherefore a man can sin mortally before he can bind himself to a future obligation.

Reply Obj. 3. Regarding the age for the marriage contract a disposition is required not only on the part of the use of reason, but also on the part of the body, in that it is necessary to be of an age adapted to procreation. And since a girl becomes apt for the act of procreation in her twelfth year, and a boy at the end of his second seven years, as the Philosopher says (*De Hist. Anim.* vii.), whereas the age is the same in both for attaining the use of reason which is the sole condition for betrothal, hence it is that the one age is assigned for both as regards betrothal, but not as regards marriage.

Reply Obj. 4. This agreeableness in regard to boys under the age of seven does not result from the perfect use of reason, since they are not as yet possessed of complete self-control; it results rather from the movement of nature than from any process of reason. Consequently, this agreeableness does not suffice for contracting a betrothal.

Reply Obj. 5. In this case, although the second contract does not amount to marriage, nevertheless the parties show that they ratify their former promise; wherefore the first contract is confirmed by the second.

Reply Obj. 6. Those who row a boat act by way of one cause, and consequently what is lacking in one can be supplied by another. But those who make a contract of betrothal act as distinct persons, since a betrothal can only be between two parties; wherefore it is necessary for each to be qualified to contract, and thus the defect of one is an obstacle to their betrothal, nor can it be supplied by the other.

Reply Obj. 7. It is true that in the matter of betrothal if the contracting parties are close upon the age of seven, the contract of betrothal is valid, since, according to the Philosopher (*Phys.* ii. 56), *when little is lacking it seems as though nothing were lacking.* Some fix the margin at six months; but it is better to determine it according to the condition of the contracting parties, since the use of reason comes sooner to some than to others.

Third Article.

whether a betrothal can be dissolved?

We proceed thus to the Third Article:—

Objection 1. It would seem that a betrothal cannot be dissolved if one of the parties enter religion. For if I have promised a thing to someone I cannot lawfully pledge it to someone else. Now he who betroths himself promises his body to the woman. Therefore he cannot make a further offering of himself to God in religion.

Obj. 2. Again, seemingly it should not be dissolved when one of the parties leaves for a distant country, because in doubtful matters one should always choose the safer course. Now the safer course would be to wait for him. Therefore she is bound to wait for him.

Obj. 3. Again, Neither seemingly is it dissolved by sickness contracted after betrothal, for no man should be punished for being under a penalty. Now the man who contracts an infirmity would be punished if he were to lose his right to the woman betrothed to him. Therefore a betrothal should not be dissolved on account of a bodily infirmity.

Obj. 4. Again, Neither seemingly should a betrothal be dissolved on account of a supervening affinity, for instance if the spouse were to commit fornication with a kinswoman of his betrothed; for in that case the affianced bride would be penalized for the sin of her affianced spouse, which is unreasonable.

Obj. 5. Again, Seemingly they cannot set one another

free; for it would be a proof of greatest fickleness if they contracted together and then set one another free; and such conduct ought not to be tolerated by the Church. Therefore, etc.

Obj. 6. Again, Neither seemingly ought a betrothal to be dissolved on account of the fornication of one of the parties. For a betrothal does not yet give the one power over the body of the other; wherefore it would seem that they nowise sin against one another if meanwhile they commit fornication. Consequently a betrothal should not be dissolved on that account.

Obj. 7. Again, Neither seemingly on account of his contracting with another woman by words expressive of the present. For a subsequent sale does not void a previous sale. Therefore neither should a second contract void a previous one.

Obj. 8. Again, Neither seemingly should it be dissolved on account of deficient age; since what is not cannot be dissolved. Now a betrothal is null before the requisite age. Therefore it cannot be dissolved.

I answer that, In all the cases mentioned above the betrothal that has been contracted is dissolved, but in different ways. For in two of them,—namely when a party enters religion, and when either of the affianced spouses contracts with another party by words expressive of the present,—the betrothal is dissolved by law, whereas in the other cases it has to be dissolved according to the judgment of the Church.

Reply Obj. 1. The like promise is dissolved by spiritual death, for that promise is purely spiritual, as we shall state further on (Q. LXI., A. 2).

Reply Obj. 2. This doubt is solved by either party not putting in an appearance at the time fixed for completing the marriage. Wherefore, if it was no fault of that party that the marriage was not completed, he or she can lawfully marry without any sin. But if he or she was responsible for the non-completion of the marriage, this responsibility involves the obligation of doing penance for the broken promise,—or oath if the promise was confirmed by oath,—

and he or she can contract with another if they wish it, subject to the judgment of the Church.

Reply Obj. 3. If either of the betrothed parties incur an infirmity which notably weakens the subject (as epilepsy or paralysis), or causes a deformity (as loss of the nose or eyes, and the like), or is contrary to the good of the offspring (as leprosy, which is wont to be transmitted to the children), the betrothal can be dissolved, lest the betrothed be displeasing to one another, and the marriage thus contracted have an evil result. Nor is one punished for being under a penalty, although one incurs a loss from one's penalty, and this is not unreasonable.

Reply Obj. 4. If the affianced bridegroom has carnal knowledge of a kinswoman of his spouse, or *vice versa*, the betrothal must be dissolved; and for proof it is sufficient that the fact be the common talk, in order to avoid scandal; for causes whose effects mature in the future are voided of their effects, not only by what actually is, but also by what happens subsequently. Hence just as affinity, had it existed at the time of the betrothal, would have prevented that contract, so, if it supervene before marriage, which is an effect of the betrothal, the previous contract is voided of its effect. Nor does the other party suffer in consequence, indeed they gain since they are set free from one who has become hateful to God by committing fornication.

Reply Obj. 5. Some do not admit this case. Yet they have against them the Decretal (cap. *Præterea*, De spons. et matr.) which says expressly: *Just as those who enter into a contract of fellowship by pledging their faith to one another and afterwards give it back, so it may be patiently tolerated that those who are betrothed to one another should set one another free.* Yet to this they say that the Church allows this lest worse happen rather than because it is according to strict law. But this does not seem to agree with the example quoted by the Decretal.

Accordingly we must reply that it is not always a proof of fickleness to rescind an agreement, since our *counsels are uncertain* (Wis. ix. 14).

Reply Obj. 6. Although when they become betrothed they have not yet given one another power over one another's body, yet if this* were to happen it would make them suspicious of one another's fidelity; and so one can ensure himself against the other by breaking off the engagement.

Reply Obj. 7. This argument would hold if each contract were of the same kind; whereas the second contract of marriage has greater force than the first, and consequently dissolves it.

Reply Obj. 8. Although it was not a true betrothal, there was a betrothal of a kind; and consequently, lest approval should seem to be given when they come to the lawful age, they should seek a dissolution of the betrothal by the judgment of the Church, for the sake of a good example.

* Referring to the contention of the *Objection.*

QUESTION XLIV.

OF THE DEFINITION OF MATRIMONY.

(*In Three Articles.*)

We must now consider the nature of matrimony. Under this head there are three points of inquiry: (1) Whether matrimony is a kind of joining? (2) Whether it is fittingly named? (3) Whether it is fittingly defined?

First Article.

WHETHER MATRIMONY IS A KIND OF JOINING?

We proceed thus to the First Article :—

Objection 1. It would seem that matrimony is not a kind of joining. Because the bond whereby things are tied together differs from their joining, as cause from effect. Now matrimony is the bond whereby those who are joined in matrimony are tied together. Therefore it is not a kind of joining.

Obj. 2. Further, Every sacrament is a sensible sign. But no relation is a sensible accident. Therefore since matrimony is a sacrament, it is not a kind of relation, and consequently neither is it a kind of joining.

Obj. 3. Further, A joining is a relation of equiparance as well as of equality. Now according to Avicenna the relation of equality is not identically the same in each extreme. Neither therefore is there an identically same joining; and consequently if matrimony is a kind of joining, there is not only one matrimony between man and wife.

On the contrary, It is by relation that things are related to one another. Now by matrimony certain things are

related to one another; for the husband is the wife's husband, and the wife is the husband's wife. Therefore matrimony is a kind of relation, nor is it other than a joining.

Further, The union of two things into one can result only from their being joined. Now such is the effect of matrimony (Gen. ii. 24): *They shall be two in one flesh.* Therefore matrimony is a kind of joining.

I answer that, A joining denotes a kind of uniting, and so wherever things are united there must be a joining. Now things directed to one purpose are said to be united in their direction thereto, thus many men are united in following one military calling or in pursuing one business, in relation to which they are called fellow-soldiers or business partners. Hence, since by marriage certain persons are directed to one begetting and upbringing of children, and again to one family life, it is clear that in matrimony there is a joining in respect of which we speak of husband and wife; and this joining, through being directed to some one thing, is matrimony; while the joining together of bodies and minds is a result of matrimony.

Reply Obj. 1. Matrimony is the bond by which they are tied formally, not effectively, and so it need not be distinct from the joining.

Reply Obj. 2. Although relation is not itself a sensible accident, its causes may be sensible. Nor is it necessary in a sacrament for that which is both reality and sacrament* to be sensible (for such is the relation of the aforesaid joining to this sacrament), whereas the words expressive of consent, which are sacrament only and are the cause of that same joining, are sensible.

Reply Obj. 3. A relation is founded on something as its cause,—for instance likeness is founded on quality,—and on something as its subject,—for instance in the things themselves that are like; and on either hand we may find unity and diversity of relation. Since then it is not the same identical quality that conduces to likeness, but the same specific quality in each of the like subjects, and since,

* Cf. P. III., Q. LXVI., A. 1.

moreover, the subjects of likeness are two in number, and the same applies to equality, it follows that both equality and likeness are in every way numerically distinct in either of the like or equal subjects. But the relations of matrimony, on the one hand, have unity in both extremes, namely on the part of the cause, since it is directed to the one identical begetting; whereas on the part of the subject there is numerical diversity. The fact of this relation having a diversity of subjects is signified by the terms *husband* and *wife*, while its unity is denoted by its being called matrimony.

Second Article.

whether matrimony is fittingly named?

We proceed thus to the Second Article :—

Objection 1. It would seem that matrimony is unfittingly named. Because a thing should be named after that which ranks higher. But the father ranks above the mother. Therefore the union of father and mother should rather be named after the father.

Obj. 2. Further, A thing should be named from that which is essential to it, since a *definition expresses the nature signified by a name* (*Met.* iv. 28). Now nuptials are not essential to matrimony. Therefore matrimony should not be called nuptials.

Obj. 3. Further, A species cannot take its proper name from that which belongs to the genus. Now a joining (*conjunctio*) is the genus of matrimony. Therefore it should not be called a conjugal union.

On the contrary stands the common use of speech.

I answer that, Three things may be considered in matrimony. First, its essence, which is a joining together, and in reference to this it is called the *conjugal union;* secondly, its cause, which is the wedding, and in reference to this it is called the *nuptial union* from *nubo*,* because at the wedding ceremony, whereby the marriage is completed, the heads of those who are wedded are covered with a

* The original meaning of *nubo* is *to veil.*

veil;* thirdly, the effect, which is the offspring, and in reference to this it is called *matrimony*, as Augustine says (*Contra Faust.* xix. 26), because *a woman's sole purpose in marrying should be motherhood.* Matrimony may also be resolved into *matris munium*,† i.e. a mother's duty, since the duty of bringing up the children chiefly devolves on the women; or into *matrem muniens*, because it provides the mother with a protector and support in the person of her husband; or into *matrem monens*, as admonishing her not to leave her husband and take up with another man; or into *materia unius*, because it is a joining together for the purpose of providing the matter of one offspring as though it were derived from μόνος and *materia*; or into *matre* and *nato*, as Isidore says (*Etym.* ix.), because it makes a woman the mother of a child.

Reply Obj. 1. Although the father ranks above the mother, the mother has more to do with the offspring than the father has. Or we may say that woman was made chiefly in order to be man's helpmate in relation to the offspring, whereas the man was not made for this purpose. Wherefore the mother has a closer relation to the nature of marriage than the father has.

Reply Obj. 2. Sometimes essentials are known by accidentals, wherefore some things can be named even after their accidentals, since a name is given to a thing for the purpose that it may become known.

Reply Obj. 3. Sometimes a species is named after something pertaining to the genus on account of an imperfection in the species, when namely it has the generic nature completely, yet adds nothing pertaining to dignity; thus the accidental property retains the name of property, which is common to it and to the definition. Sometimes, however, it is on account of a perfection, when we find the generic nature completely in one species and not in another: thus animal is named from soul (*anima*), and this belongs to an animate body, which is the genus of animal; yet animation is not found perfectly in those animate beings that are

* This is still done in some countries. † I.e., *munus*.

not animals. It is thus with the case in point; for the joining of husband and wife by matrimony is the greatest of all joinings, since it is a joining of soul and body, wherefore it is called a *conjugal* union.

Third Article.

whether matrimony is fittingly defined in the text?

We proceed thus to the Third Article :—

Objection 1. It would seem that matrimony is unfittingly defined in the text* (iv. *Sent.* D. 27). For it is necessary to mention matrimony in defining a husband, since it is the husband who is joined to the woman in matrimony. Now *marital union* is put in the definition of matrimony. Therefore in these definitions there would seem to be a vicious circle.

Obj. 2. Further, Matrimony makes the woman the man's wife no less than it makes the man the woman's husband. Therefore it should not be described as a *marital union* rather than an uxorial union.

Obj. 3. Further, Habit (*consuetudo*) pertains to morals. Yet it often happens that married persons differ very much in habit. Therefore the words *involving their living together* (*consuetudinem*) *in undivided partnership* should have no place in the definition of matrimony.

Obj. 4. Further, We find other definitions given of matrimony, for according to Hugh (*De Sacram.* ii.), *matrimony is the lawful consent of two apt persons to be joined together.* Also, according to some, *matrimony is the fellowship of a common life and a community regulated by Divine and human law ;* and we ask how these definitions differ.

I answer that, As stated above (A. 2), three things are to be considered in matrimony, namely its cause, its essence, and its effect; and accordingly we find three definitions

* The definition alluded to is as follows: *Marriage is the marital union of man and woman involving their living together in undivided partnership.*

given of matrimony. For the definition of Hugh indicates the cause, namely the consent, and this definition is self-evident. The definition given in the text indicates the essence of matrimony, namely the *union*, and adds determinate subjects by the words *between lawful persons*. It also points to the difference of the contracting parties in reference to the species, by the word *marital*, for since matrimony is a joining together for the purpose of some one thing, this joining together is specified by the purpose to which it is directed, and this is what pertains to the husband (*maritum*). It also indicates the force of this joining,—for it is indissoluble,—by the words *involving*, etc.

The remaining definition indicates the effect to which matrimony is directed, namely the common life in family matters. And since every community is regulated by some law, the code according to which this community is directed, namely Divine and human law, finds a place in this definition; while other communities, such as those of traders or soldiers, are established by human law alone.

Reply Obj. 1. Sometimes the prior things from which a definition ought to be given are not known to us, and consequently certain things are defined from things that are posterior simply, but prior to us; thus in the definition of quality the Philosopher employs the word *such* (*quale*) when he says (Cap. *De Qualitate*) that *quality is that whereby we are said to be such*. Thus, too, in defining matrimony we say that it is a *marital union*, by which we mean that matrimony is a union for the purpose of those things required by the marital office, all of which could not be expressed in one word.

Reply Obj. 2. As stated (A. 2), this difference indicates the end of the union. And since, according to the Apostle (1 Cor. xi. 9), the *man is not* (Vulg.,—*was not created*) *for the woman, but the woman for the man*, it follows that this difference should be indicated in reference to the man rather than the woman.

Reply Obj. 3. Just as the civic life denotes not the indi-

vidual act of this or that one, but the things that concern the common action of the citizens, so the conjugal life is nothing else than a particular kind of companionship pertaining to that common action; wherefore as regards this same life the partnership of married persons is always indivisible, although it is divisible as regards the act belonging to each party.

The *Reply* to the *Fourth Objection* is clear from what has been said above.

QUESTION XLV.

OF THE MARRIAGE CONSENT CONSIDERED IN ITSELF.

(*In Five Articles.*)

In the next place we have to consider the consent; and the first point to discuss is the consent considered in itself; the second is the consent confirmed by oath or by carnal intercourse; the third is compulsory consent and conditional consent; and the fourth is the object of the consent.

Under the first head there are five points of inquiry: (1) Whether the consent is the efficient cause of matrimony? (2) Whether the consent needs to be expressed in words? (3) Whether consent given in words expressive of the future makes a marriage? (4) Whether consent given in words expressive of the present, without inward consent, makes a true marriage outwardly? (5) Whether consent given secretly in words expressive of the present makes a marriage?

First Article.

WHETHER CONSENT IS THE EFFICIENT CAUSE OF MATRIMONY?

We proceed thus to the First Article:—

Objection 1. It would seem that consent is not the efficient cause of matrimony. For the sacraments depend not on the human will but on the Divine institution, as shown above (iv. *Sent.*, D. 2; P. III., Q. LXIV., A. 2). But consent belongs to the human will. Therefore it is no more the cause of matrimony than of the other sacraments.

Obj. 2. Further, Nothing is its own cause. But seemingly

matrimony is nothing else than the consent, since it is the consent which signifies the union of Christ with the Church.

Obj. 3. Further, Of one thing there should be one cause. Now there is one marriage between two persons, as stated above (Q. XLIV., A. 1); whereas the consents of the two parties are distinct, for they are given by different persons and to different things, since on the one hand there is consent to take a husband, and on the other hand consent to take a wife. Therefore mutual consent is not the cause of matrimony.

On the contrary, Chrysostom* says: *It is not coition but consent that makes a marriage.*

Further, One person does not receive power over that which is at the free disposal of another, without the latter's consent. Now by marriage each of the married parties receives power over the other's body (1 Cor. vii. 4), whereas hitherto each had free power over his own body. Therefore consent makes a marriage.

I answer that, In every sacrament there is a spiritual operation by means of a material operation which signifies it; thus in Baptism the inward spiritual cleansing is effected by a bodily cleansing. Wherefore, since in matrimony there is a kind of spiritual joining together, in so far as matrimony is a sacrament, and a certain material joining together, in so far as it is directed to an office of nature and of civil life, it follows that the spiritual joining is the effect of the Divine power by means of the material joining. Therefore seeing that the joinings of material contracts are effected by mutual consent, it follows that the joining together of marriage is effected in the same way.

Reply Obj. 1. The first cause of the sacraments is the Divine power which works in them the welfare of the soul; but the second or instrumental causes are material operations deriving their efficacy from the Divine institution, and thus consent is the cause in matrimony.

Reply Obj. 2. Matrimony is not the consent itself, but

* *Hom.* xxxii. in the *Opus Imperfectum* falsely ascribed to S. John Chrysostom.

the union of persons directed to one purpose, as stated above (Q. XLIV., A. 1), and this union is the effect of the consent. Moreover, the consent, properly speaking, signifies not the union of Christ with the Church, but His will whereby His union with the Church was brought about.

Reply Obj. 3. Just as marriage is one on the part of the object to which the union is directed, whereas it is more than one on the part of the persons united, so too the consent is one on the part of the thing consented to, namely the aforesaid union, whereas it is more than one on the part of the persons consenting. Nor is the direct object of consent a husband, but union with a husband on the part of the wife, even as it is union with a wife on the part of the husband.

SECOND ARTICLE.

WHETHER THE CONSENT NEEDS TO BE EXPRESSED IN WORDS?

We proceed thus to the Second Article :—

Objection 1. It would seem that there is no need for the consent to be expressed in words. For a man is brought under another's power by a vow just as he is by matrimony. Now a vow is binding in God's sight, even though it be not expressed in words. Therefore consent also makes a marriage binding even without being expressed in words.

Obj. 2. Further, There can be marriage between persons who are unable to express their mutual consent in words, through being dumb or of different languages. Therefore expression of the consent by words is not required for matrimony.

Obj. 3. Further, If that which is essential to a sacrament be omitted for any reason whatever, there is no sacrament. Now there is a case of marriage without the expression of words if the maid is silent through bashfulness when her parents give her away to the bridegroom. Therefore the expression of words is not essential to matrimony.

On the contrary, Matrimony is a sacrament. Now a sensible sign is required in every sacrament. Therefore

it is also required in matrimony, and consequently there must needs be at least words by which the consent is made perceptible to the senses.

Further, In matrimony there is a contract between husband and wife. Now in every contract there must be expression of the words by which men bind themselves mutually to one another. Therefore in matrimony also the consent must be expressed in words.

I answer that, As stated above (A. 1), the marriage union is effected in the same way as the bond in material contracts. And since material contracts are not feasible unless the contracting parties express their will to one another in words, it follows that the consent which makes a marriage must also be expressed in words, so that the expression of words is to marriage what the outward washing is to Baptism.

Reply Obj. 1. In a vow there is not a sacramental but only a spiritual bond, wherefore there is no need for it to be done in the same way as material contracts, in order that it be binding, as in the case of matrimony.

Reply Obj. 2. Although the like cannot plight themselves to one another in words, they can do so by signs, and such signs count for words.

Reply Obj. 3. According to Hugh of S. Victor (*Tract.* vii., *Sum. Sent.*), persons who are being married should give their consent by accepting one another freely; and this is judged to be the case if they show no dissent when they are being wedded. Wherefore in such a case the words of the parents are taken as being the maid's, for the fact that she does not contradict them is a sign that they are her words.

Third Article.

whether consent given in words expressive of the future makes a marriage?

We proceed thus to the Third Article :—

Objection 1. It would seem that consent given in words expressive of the future makes a marriage. For as present

is to present so is future to future. But consent given in words expressive of the present makes a marriage in the present. Therefore consent given in words expressive of the future makes a marriage in the future.

Obj. 2. Further, In other civil contracts, just as in matrimony, a certain obligation results from the words expressing consent. Now in other contracts it matters not whether the obligation is effected by words of the present or of the future tense. Therefore neither does it make any difference in matrimony.

Obj. 3. Further, By the religious vow man contracts a spiritual marriage with God. Now the religious vow is expressed in words of the future tense, and is binding. Therefore carnal marriage also can be effected by words of the future tense.

On the contrary, A man who consents in words of the future tense to take a particular woman as his wife, and after, by words of the present tense, consents to take another, according to law must take the second for his wife (cap. *Sicut ex Litteris ;* De spons. et matr.). But this would not be the case if consent given in words of the future tense made a marriage, since from the very fact that his marriage with the one is valid, he cannot, as long as she lives, marry another. Therefore consent given in words of the future tense does not make a marriage.

Further, He who promises to do a certain thing does it not yet. Now he who consents in words of the future tense, promises to marry a certain woman. Therefore he does not marry her yet.

I answer that, The sacramental causes produce their effect by signifying it; hence they effect what they signify. Since therefore when a man expresses his consent by words of the future tense, he does not signify that he is marrying, but promises that he will marry, it follows that a consent expressed in this manner does not make a marriage, but a promise (*sponsionem*) of marriage, and this promise is known as a betrothal (*sponsalia*).

Reply Obj. 1. When consent is expressed in words of the

present tense, not only are the words actually present, but consent is directed to the present, so that they coincide in point of time; but when consent is given in words of the future tense, although the words are actually present, the consent is directed to a future time, and hence they do not coincide in point of time. For this reason the comparison fails.

Reply Obj. 2. Even in other contracts, a man who uses words referring to the future, does not transfer the power over his thing to another person,—for instance if he were to say *I will give thee*,—but only when he uses words indicative of the present.

Reply Obj. 3. In the vow of religious profession it is not the spiritual marriage itself that is expressed in words which refer to the future, but an act of the spiritual marriage, namely obedience or observance of the rule. If, however, a man vow spiritual marriage in the future, it is not a spiritual marriage, for a man does not become a monk by taking such a vow, but promises to become one.

Fourth Article.

WHETHER, IN THE ABSENCE OF INWARD CONSENT, A MARRIAGE IS MADE BY CONSENT GIVEN IN WORDS OF THE PRESENT?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that even in the absence of inward consent a marriage is made by consent expressed in words of the present. For *fraud and deceit should benefit no man*, according to the law (cap. *Ex Tenore.*, De Rescrip.; cap. *Si Vir.*, De cognat. spir.). Now he who gives consent in words without consenting in heart commits a fraud. Therefore he should not benefit by it, through being released of the bond of marriage.

Obj. 2. Further, The mental consent of one person cannot be known to another, except in so far as it is expressed in words. If then the expression of the words is not enough, and inward consent is required in both parties, neither of

them will be able to know that he is truly married to the other; and consequently whenever he uses marriage he will commit fornication.

Obj. 3. Further, If a man is proved to have consented to take a certain woman to wife in words of the present tense, he is compelled under pain of excommunication to take her as his wife, even though he should say that he was wanting in mental consent, notwithstanding that afterwards he may have contracted marriage with another woman by words expressive of consent in the present. But this would not be the case if mental consent were requisite for marriage. Therefore it is not required.

On the contrary, Innocent III. says in a Decretal (cap. *Tua Nos,* De spons. et matr.) in reference to this case: *Other things cannot complete the marriage bond in the absence of consent.*

Further, Intention is necessary in all the sacraments. Now he who consents not in his heart has no intention of contracting marriage; and therefore he does not contract a marriage.

I answer that, The outward cleansing stands in the same relation to baptism as the expression of words to this sacrament, as stated above (A. 2). Wherefore just as were a person to receive the outward cleansing, with the intention, not of receiving the sacrament, but of acting in jest or deceit, he would not be baptized; so, too, expression of words without inward consent makes no marriage.

Reply Obj. 1. There are two things here, namely the lack of consent,—which benefits him in the tribunal of his conscience so that he is not bound by the marriage tie, albeit not in the tribunal of the Church where judgment is pronounced according to the evidence,—and the deceit in the words, which does not benefit him, neither in the tribunal of his conscience nor in the tribunal of the Church, since in both he is punished for this.

Reply Obj. 2. If mental consent is lacking in one of the parties, on neither side is there marriage, since marriage consists in a mutual joining together, as stated above

(Q. XLIV., A. 1). However one may believe that in all probability there is no fraud unless there be evident signs thereof; because we must presume good of everyone, unless there be proof of the contrary. Consequently the party in whom there is no fraud is excused from sin on account of ignorance.

Reply Obj. 3. In such a case the Church compels him to hold to his first wife, because the Church judges according to outward appearances; nor is she deceived in justice or right, although she is deceived in the facts of the case. Yet such a man ought to bear the excommunication rather than return to his first wife; or else he should go far away into another country.

Fifth Article.

Whether consent given secretly in words of the present makes a marriage?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that consent given secretly in words of the present does not make a marriage. For a thing that is in one person's power is not transferred to the power of another without the consent of the person in whose power it was. Now the maid is in her father's power. Therefore she cannot by marriage be transferred to a husband's power without her father's consent. Wherefore if consent be given secretly, even though it should be expressed in words of the present, there will be no marriage.

Obj. 2. Further, In penance, just as in matrimony, our act is as it were essential to the sacrament. But the sacrament of penance is not made complete except by means of the ministers of the Church, who are the dispensers of the sacraments. Therefore neither can marriage be perfected without the priest's blessing.

Obj. 3. Further, The Church does not forbid baptism to be given secretly, since one may baptize either privately or publicly. But the Church does forbid the celebration of clandestine marriages (cap. *Cum inhibitio*, De clandest. despons.). Therefore they cannot be done secretly.

Obj. 4. Further, Marriage cannot be contracted by those who are related in the second degree, because the Church has forbidden it. But the Church has also forbidden clandestine marriages. Therefore they cannot be valid marriages.

On the contrary, Given the cause the effect follows. Now the sufficient cause of matrimony is consent expressed in words of the present. Therefore whether this be done in public or in private the result is a marriage.

Further, Wherever there is the due matter and the due form of a sacrament there is the sacrament. Now in a secret marriage there is the due matter, since there are persons who are able lawfully to contract,—and the due form, since there are the words of the present expressive of consent. Therefore there is a true marriage.

I answer that, Just as in the other sacraments certain things are essential to the sacrament, and if they are omitted there is no sacrament, while certain things belong to the solemnization of the sacrament, and if these be omitted the sacrament is nevertheless validly performed, although it is a sin to omit them; so, too, consent expressed in words of the present between persons lawfully qualified to contract makes a marriage, because these two conditions are essential to the sacrament; while all else belongs to the solemnization of the sacrament, as being done in order that the marriage may be more fittingly performed. Hence if these be omitted it is a true marriage, although the contracting parties sin, unless they have a lawful motive for being excused.*

Reply Obj. 1. The maid is in her father's power, not as a female slave without power over her own body, but as a daughter, for the purpose of education. Hence, in so far as she is free, she can give herself into another's power without her father's consent, even as a son or daughter, since they are free, may enter religion without their parents' consent.

* Clandestine marriages have since been declared invalid by the Council of Trent (Sess. xxiv.). It must be borne in mind that throughout the treatise on marriage S. Thomas gives the Canon Law of his time.

Reply Obj. 2. In penance our act, although essential to the sacrament, does not suffice for producing the proximate effect of the sacrament, namely forgiveness of sins, and consequently it is necessary that the act of the priest intervene in order that the sacrament be perfected. But in matrimony our acts are the sufficient cause for the production of the proximate effect, which is the marriage bond, because whoever has the right to dispose of himself can bind himself to another. Consequently the priest's blessing is not required for matrimony as being essential to the sacrament.

Reply Obj. 3. It is also forbidden to receive baptism otherwise than from a priest, except in a case of necessity. But matrimony is not a necessary sacrament; and consequently the comparison fails. However, clandestine marriages are forbidden on account of the evil results to which they are liable, since it often happens that one of the parties is guilty of fraud in such marriages; frequently, too, they have recourse to other nuptials when they repent of having married in haste; and many other evils result therefrom, besides which there is something disgraceful about them.

Reply Obj. 4. Clandestine marriages are not forbidden as though they were contrary to the essentials of marriage, in the same way as the marriages of unlawful persons, who are undue matter for this sacrament; and hence there is no comparison.

QUESTION XLVI.

OF THE CONSENT TO WHICH AN OATH OR CARNAL INTERCOURSE IS APPENDED.

(*In Two Articles.*)

We must now consider the consent to which an oath or carnal intercourse is appended. Under this head there are two points of inquiry: (1) Whether an oath added to the consent that is expressed in words of the future tense makes a marriage? (2) Whether carnal intercourse supervening to such a consent makes a marriage?

First Article.

WHETHER AN OATH ADDED TO THE CONSENT THAT IS EXPRESSED IN WORDS OF THE FUTURE TENSE MAKES A MARRIAGE?

We proceed thus to the First Article:—

Objection 1. It would seem that if an oath be added to a consent that is expressed in words of the future tense it makes a marriage. For no one can bind himself to act against the Divine law. But the fulfilling of an oath is of Divine law according to Matth. v. 33, *Thou shalt perform thy oaths to the Lord.* Consequently no subsequent obligation can relieve a man of the obligation to keep an oath previously taken. If, therefore, after consenting to marry a woman by words expressive of the future and confirming that consent with an oath, a man binds himself to another woman by words expressive of the present, it would seem that none the less he is bound to keep his former oath. But this would not be the case unless that oath made the

marriage complete. Therefore an oath affixed to a consent expressed in words of the future tense makes a marriage.

Obj. 2. Further, Divine truth is stronger than human truth. Now an oath confirms a thing with the Divine truth. Since then words expressive of consent in the present in which there is mere human truth complete a marriage, it would seem that much more is this the case with words of the future confirmed by an oath.

Obj. 3. Further, According to the Apostle (Heb. vi. 16), *An oath for confirmation is the end of all . . . controversy;* wherefore in a court of justice at any rate one must stand by an oath rather than by a mere affirmation. Therefore if a man consent to marry a woman by a simple affirmation expressed in words of the present, after having consented to marry another in words of the future confirmed by oath, it would seem that in the judgment of the Church he should be compelled to take the first and not the second as his wife.

Obj. 4. Further, The simple uttering of words relating to the future makes a betrothal. But the addition of an oath must have some effect. Therefore it makes something more than a betrothal. Now beyond a betrothal there is nothing but marriage. Therefore it makes a marriage.

On the contrary, What is future is not yet. Now the addition of an oath does not make words of the future tense signify anything else than consent to something future. Therefore it is not a marriage yet.

Further, After a marriage is complete, no further consent is required for the marriage. But after the oath there is yet another consent which makes the marriage, else it would be useless to swear to a future marriage. Therefore it does not make a marriage.

I answer that, An oath is employed in confirmation of one's words; wherefore it confirms that only which is signified by the words, nor does it change their signification. Consequently, since it belongs to words of the future tense, by their very signification, not to make a marriage, since what is promised in the future is not done yet, even though

an oath be added to the promise, the marriage is not made yet, as the Master says in the text (iv. *Sent.* D. 28).

Reply Obj. 1. The fulfilling of a lawful oath is of Divine law, but not the fulfilling of an unlawful oath. Wherefore if a subsequent obligation makes that oath unlawful, whereas it was lawful before, he who does not keep the oath he took previously does not disobey the Divine law. And so it is in the case in point; since he swears unlawfully who promises unlawfully; and a promise about another's property is unlawful. Consequently the subsequent consent by words of the present, whereby a man transfers the power over his body to another woman, makes the previous oath unlawful which was lawful before.

Reply Obj. 2. The Divine truth is most efficacious in confirming that to which it is applied. Hence the *Reply* to the *Third Objection* is clear.

Reply Obj. 4. The oath has some effect, not by causing a new obligation, but confirming that which is already made, and thus he who violates it sins more grievously.

Second Article.

WHETHER CARNAL INTERCOURSE AFTER CONSENT EXPRESSED IN WORDS OF THE FUTURE MAKES A MARRIAGE?

We proceed thus to the Second Article :—

Objection 1. It would seem that carnal intercourse after consent expressed in words of the future makes a marriage. For consent by deed is greater than consent by word. But he who has carnal intercourse consents by deed to the promise he has previously made. Therefore it would seem that much more does this make a marriage than if he were to consent to mere words referring to the present.

Obj. 2. Further, Not only explicit but also interpretive consent makes a marriage. Now there can be no better interpretation of consent than carnal intercourse. Therefore marriage is completed thereby.

Obj. 3. Further, All carnal union outside marriage is a sin. But the woman, seemingly, does not sin by admitting

her betrothed to carnal intercourse. Therefore it makes a marriage.

Obj. 4. Further, *Sin is not forgiven unless restitution be made,* as Augustine says (*Ep. ad Macedon.*). Now a man cannot reinstate a woman whom he has violated under the pretence of marriage unless he marry her. Therefore it would seem that even if, after his carnal intercourse, he happen to contract with another by words of the present tense, he is bound to return to the first; and this would not be the case unless he were married to her. Therefore carnal intercourse after consent referring to the future makes a marriage.

On the contrary, Pope Nicholas I. says (*Resp. ad Consult. Bulg.* iii. cap. *Tuas dudum,* De clandest. despons.), *Without the consent to marriage, other things, including coition, are of no effect.*

Further, That which follows a thing does not make it. But carnal intercourse follows the actual marriage, as effect follows cause. Therefore it cannot make a marriage.

I answer that, We may speak of marriage in two ways. First, in reference to the tribunal of conscience, and thus in very truth carnal intercourse cannot complete a marriage the promise of which has previously been made in words expressive of the future, if inward consent is lacking, since words, even though expressive of the present, would not make a marriage in the absence of mental consent, as stated above (Q. XLV., A. 4). Secondly, in reference to the judgment of the Church; and since in the external tribunal judgment is given in accordance with external evidence, and since nothing is more expressly significant of consent than carnal intercourse, it follows that in the judgment of the Church carnal intercourse following on betrothal is declared to make a marriage, unless there appear clear signs of deceit or fraud* (Extra., De sponsal. et matrim., cap. *Is qui fidem,* ex Gregorio IX., and cap. *Tua Nos,* ex Innocentio III.).

Reply Obj. 1. In reality he who has carnal intercourse

* According to the pre-Tridentine legislation.

consents by deed to the act of sexual union, and does not merely for this reason consent to marriage except according to the interpretation of the law.

Reply Obj. 2. This interpretation does not alter the truth of the matter, but changes the judgment which is about external things.

Reply Obj. 3. If the woman admit her betrothed, thinking that he wishes to consummate the marriage, she is excused from the sin, unless there be clear signs of fraud; for instance if they differ considerably in birth or fortune, or some other evident sign appear. Nevertheless the affianced husband is guilty of fornication, and should be punished for this fraud he has committed.

Reply Obj. 4. In a case of this kind the affianced husband, before his marriage with the other woman, is bound to marry the one to whom he was betrothed, if she be his equal or superior in rank. But if he has married another woman, he is no longer able to fulfil his obligation, wherefore it suffices if he provide for her marriage. Nor is he bound even to do this, according to some, if her affianced husband is of much higher rank than she, or if there be some evident sign of fraud, because it may be presumed that in all probability she was not deceived but pretended to be.

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QUESTION XLVII.

OF COMPULSORY AND CONDITIONAL CONSENT.

(In Six Articles.)

We must now consider compulsory and conditional consent. Under this head there are six points of inquiry: (1) Whether compulsory consent is possible? (2) Whether a constant man can be compelled by fear? (3) Whether compulsory consent invalidates marriage? (4) Whether compulsory consent makes a marriage as regards the party using compulsion? (5) Whether conditional consent makes a marriage? (6) Whether one can be compelled by one's father to marry?

First Article.

WHETHER A COMPULSORY CONSENT IS POSSIBLE?

We proceed thus to the First Article :—

Objection 1. It would seem that no consent can be compulsory. For, as stated above (ii. *Sent.* D. 25; I.-II., Q. VI., A. 4) the free-will cannot be compelled. Now consent is an act of the free-will. Therefore it cannot be compulsory.

Obj. 2. Further, Violent is the same as compulsory. Now, according to the Philosopher (*Ethic.* iii. 1), *a violent action is one the principle of which is without, the patient concurring not at all.* But the principle of consent is always within. Therefore no consent can be compulsory.

Obj. 3. Further, Every sin is perfected by consent. But that which perfects a sin cannot be compulsory, for, according to Augustine (*De Lib. Arb.* iii. 18), *no one sins in what he cannot avoid.* Since then violence is defined by jurists

(i. ff. *de eo quod vi metusve*) as the *force of a stronger being that cannot be repulsed*, it would seem that consent cannot be compulsory or violent.

Obj. 4. Further, Power is opposed to liberty. But compulsion is allied to power, as appears from a definition of Tully's in which he says that *compulsion is the force of one who exercises his power to detain a thing outside its proper bounds.* Therefore the free-will cannot be compelled, and consequently neither can consent which is an act thereof.

On the contrary, That which cannot be, cannot be an impediment. But compulsory consent is an impediment to matrimony, as stated in the text (iv. *Sent.* D. 29). Therefore consent can be compelled.

Further, In marriage there is a contract. Now the will can be compelled in the matter of contracts; for which reason the law adjudges that restitution should be made of the whole, for it does not ratify *that which was done under compulsion or fear* (*loc. cit.*). Therefore in marriage also it is possible for the consent to be compulsory.

I answer that, Compulsion or violence is twofold. One is the cause of absolute necessity, and violence of this kind the Philosopher calls (*loc. cit.*) *violent simply*, as when by bodily strength one forces a person to move; the other causes conditional necessity, and the Philosopher calls this a *mixed violence*, as when a person throws his merchandise overboard in order to save himself. In the latter kind of violence, although the thing done is not voluntary in itself, yet taking into consideration the circumstances of place and time it is voluntary. And since actions are about particulars, it follows that it is voluntary simply, and involuntary in a certain respect.* Wherefore this latter violence or compulsion is consistent with consent, but not the former. And since this compulsion results from one's fear of a threatening danger, it follows that this violence coincides with fear which, in a manner, compels the will, whereas the former violence has to do with bodily actions. Moreover, since the law considers not merely internal

* Cf. I.-II., Q. VI., A. 6.

actions, but rather external actions, consequently it takes violence to mean absolute compulsion, for which reason it draws a distinction between violence and fear. Here, however, it is a question of internal consent which cannot be influenced by compulsion or violence as distinct from fear. Therefore as to the question at issue compulsion and fear are the same. Now, according to lawyers, fear is *the agitation of the mind occasioned by danger imminent or future* (*loc. cit.*).

This suffices for the *Replies* to the *Objections;* for the first set of arguments consider the first kind of compulsion, and the second set of arguments consider the second.

Second Article.

whether a constant man can be compelled by fear?

We proceed thus to the Second Article :—

Objection 1. It would seem that a constant man cannot be compelled by fear. Because the nature of a constant man is not to be agitated in the midst of dangers. Since then fear is *agitation of the mind occasioned by imminent danger,* it would seem that he is not compelled by fear.

Obj. 2. Further, *Of all fearsome things death is the limit,* according to the Philosopher (*Ethic.* iii.), as though it were the most perfect of all things that inspire fear. But the constant man is not compelled by death, since the brave face even mortal dangers. Therefore no fear influences a constant man.

Obj. 3. Further, Of all dangers a good man fears most that which affects his good name. But the fear of disgrace is not reckoned to influence a constant man, because, according to the law (vii. ff. *de eo quod metus,* etc.), *fear of disgrace is not included under the ordinance, 'That which is done through fear.'* Therefore neither does any other kind of fear influence a constant man.

Obj. 4. Further, In him who is compelled by fear, fear leaves a sin, for it makes him promise what he is unwilling to fulfil, and thus it makes him lie. But a constant man

does not commit a sin, not even a very slight one, for fear. Therefore no fear influences a constant man.

On the contrary, Abraham and Isaac were constant. Yet they were influenced by fear, since on account of fear each said that his wife was his sister (Gen. xii. 12; xxvi. 7).

Further, Wherever there is mixed violence, it is fear that compels. But however constant a man may be he may suffer violence of that kind, for if he be on the sea, he will throw his merchandise overboard if menaced with shipwreck. Therefore fear can influence a constant man.

I answer that, By fear influencing a man we mean his being compelled by fear. A man is compelled by fear when he does that which otherwise he would not wish to do, in order to avoid that which he fears. Now the constant differs from the inconstant man in two respects. First, in respect of the quality of the danger feared, because the constant man follows right reason, whereby he knows whether to omit this rather than that, and whether to do this rather than that. Now the lesser evil or the greater good is always to be chosen in preference; and therefore the constant man is compelled to bear with the lesser evil through fear of the greater evil, but he is not compelled to bear with the greater evil in order to avoid the lesser. But the inconstant man is compelled to bear with the greater evil through fear of a lesser evil, namely to commit sin through fear of bodily suffering; whereas on the contrary the obstinate man cannot be compelled even to permit or to do a lesser evil, in order to avoid a greater. Hence the constant man is a mean between the inconstant and the obstinate. Secondly, they differ as to their estimate of the threatening evil, for a constant man is not compelled unless for grave and probable reasons, while the inconstant man is compelled by trifling motives: *The wicked man fleeth when no man pursueth* (Prov. xxviii. 1).

Reply Obj. 1. The constant man, like the brave man, is fearless, as the Philosopher states (*Ethic.* iii. 4), not that he is altogether without fear, but because he fears not what he ought not to fear, or where, or when he ought not to fear.

Reply Obj. 2. Sin is the greatest of evils, and consequently a constant man can nowise be compelled to sin; indeed a man should die rather than suffer the like, as again the Philosopher says (*Ethic.* iii. 6, 9). Yet certain bodily injuries are less grievous than certain others; and chief among them are those which relate to the person, such as death, blows, the stain resulting from rape, and slavery. Wherefore the like compel a constant man to suffer other bodily injuries. They are contained in the verse

Rape, status, blows, and death.

Nor does it matter whether they refer to his own person, or to the person of his wife or children, or the like.

Reply Obj. 3. Although disgrace is a greater injury it is easy to remedy it. Hence fear of disgrace is not reckoned to influence a constant man according to law.

Reply Obj. 4. The constant man is not compelled to lie, because at the time he wishes to give; yet afterwards he wishes to ask for restitution, or at least to appeal to the judge, if he promised not to ask for restitution. But he cannot promise not to appeal, for since this is contrary to the good of justice, he cannot be compelled thereto, namely to act against justice.

Third Article.

whether compulsory consent invalidates a marriage?

We proceed thus to the Third Article:—

Objection 1. It would seem that compulsory consent does not invalidate a marriage. For just as consent is necessary for matrimony, so is intention necessary for Baptism. Now one who is compelled by fear to receive Baptism, receives the sacrament. Therefore one who is compelled by fear to consent is bound by his marriage.

Obj. 2. Further, According to the Philosopher (*Ethic.* iii. 1), that which is done on account of mixed violence is more voluntary than involuntary. Now consent cannot be compelled except by mixed violence. Therefore it is not

entirely involuntary, and consequently the marriage is valid.

Obj. 3. Further, Seemingly he who has consented to marriage under compulsion ought to be counselled to stand to that marriage; because to promise and not to fulfil has an *appearance of evil*, and the Apostle wishes us to refrain from all such things (1 Thess. v. 22). But that would not be the case if compulsory consent invalidated a marriage altogether. Therefore, etc.

On the contrary, A Decretal says (cap. *Cum locum*, De sponsal. et matrim.): *Since there is no room for consent where fear or compulsion enters in, it follows that where a person's consent is required, every pretext for compulsion must be set aside.* Now mutual contract is necessary in marriage. Therefore, etc.

Further, Matrimony signifies the union of Christ with the Church, which union is according to the liberty of love. Therefore it cannot be the result of compulsory consent.

I answer that, The marriage bond is everlasting. Hence whatever is inconsistent with its perpetuity invalidates marriage. Now the fear which compels a constant man deprives the contract of its perpetuity, since its complete rescission can be demanded. Wherefore this compulsion by fear which influences a constant man, invalidates marriage, but not the other compulsion. Now a constant man is reckoned a virtuous man who, according to the Philosopher (*Ethic.* iii. 4), is a measure in all human actions.

However, some say that if there be consent, although compulsory, the marriage is valid in conscience and in God's sight, but not in the eyes of the Church, who presumes that there was no inward consent on account of the fear. But this is of no account, because the Church should not presume a person to sin until it be proved; and he sinned if he said that he consented whereas he did not consent. Wherefore the Church presumes that he did consent, but judges this compulsory consent to be insufficient for a valid marriage.

Reply Obj. 1. The intention is not the efficient cause of

the sacrament in baptism, it is merely the cause that elicits the action of the agent; whereas the consent is the efficient cause in matrimony. Hence the comparison fails.

Reply Obj. 2. Not any kind of voluntariness suffices for marriage: it must be completely voluntary, because it has to be perpetual; and consequently it is invalidated by violence of a mixed nature.

Reply Obj. 3. He ought not always to be advised to stand to that marriage, but only when evil results are feared from its dissolution. Nor does he sin if he does otherwise, because there is no appearance of evil in not fulfilling a promise that one has made unwillingly.

Fourth Article.

Whether compulsory consent makes a marriage as regards the party who uses compulsion?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that compulsory consent makes a marriage, at least as regards the party who uses compulsion. For matrimony is a sign of a spiritual union. But spiritual union which is by charity may be with one who has not charity. Therefore marriage is possible with one who wills it not.

Obj. 2. Further, If she who was compelled consents afterwards, it will be a true marriage. But he who compelled her before is not bound by her consent. Therefore he was married to her by virtue of the consent he gave before.

On the contrary, Matrimony is an equiparant relation. Now a relation of that kind is equally in both terms. Therefore if there is an impediment on the part of one, there will be no marriage on the part of the other.

I answer that, Since marriage is a kind of relation, and a relation cannot arise in one of the terms without arising in the other, it follows that whatever is an impediment to matrimony in the one, is an impediment to matrimony in the other; since it is impossible for a man to be the husband of one who is not his wife, or for a woman to be a wife

without a husband, just as it is impossible to be a mother without having a child. Hence it is a common saying that *marriage is not lame.*

Reply Obj. 1. Although the act of the lover can be directed to one who loves not, there can be no union between them, unless love be mutual. Wherefore the Philosopher says (*Ethic.* viii. 2) that friendship which consists in a kind of union requires a return of love.

Reply Obj. 2. Marriage does not result from the consent of her who was compelled before, except in so far as the other party's previous consent remains in force; wherefore if he were to withdraw his consent there would be no marriage.

Fifth Article.

WHETHER CONDITIONAL CONSENT MAKES A MARRIAGE?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that not even a conditional consent makes a marriage, because a statement is not made simply if it is made subject to a condition. But in marriage the words expressive of consent must be uttered simply. Therefore a conditional consent makes no marriage.

Obj. 2. Further, Marriage should be certain. But where a statement is made under a condition it is rendered doubtful. Therefore a like consent makes no marriage.

On the contrary, In other contracts an obligation is undertaken conditionally, and holds so long as the condition holds. Therefore since marriage is a contract, it would seem that it can be made by a conditional consent.

I answer that, The condition made is either of the present or of the future. If it is of the present and is not contrary to marriage, whether it be moral or immoral, the marriage holds if the condition is verified, and is invalid if the condition is not verified. If, however, it be contrary to the marriage blessings, the marriage is invalid, as we have also said in reference to betrothals (Q. XLIII., A. 1). But if the condition refer to the future, it is either necessary, as that the sun will rise to-morrow,—and then the marriage

is valid, because such future things are present in their causes,—or else it is contingent, as the payment of a sum of money, or the consent of the parents, and then the judgment about a consent of this kind is the same as about a consent expressed in words of the future tense; wherefore it makes no marriage.

This suffices for the *Replies* to the *Objections*.

Sixth Article.

whether one can be compelled by one's father's command to marry?

We proceed thus to the Sixth Article :—

Objection 1. It would seem that one can be compelled by one's father's command to marry. For it is written (Col. iii. 20): *Children, obey your parents in all things*. Therefore they are bound to obey them in this also.

Obj. 2. Further, Isaac charged Jacob (Gen. xxviii. 1) not to take a wife from the daughters of Chanaan. But he would not have charged him thus unless he had the right to command it. Therefore a son is bound to obey his father in this.

Obj. 3. Further, No one should promise, especially with an oath, for one whom he cannot compel to keep the promise. Now parents promise future marriages for their children, and even confirm their promise by oath. Therefore they can compel their children to keep that promise.

Obj. 4. Further, Our spiritual father, the Pope to wit, can by his command compel a man to a spiritual marriage, namely to accept a bishopric. Therefore a carnal father can compel his son to marriage.

On the contrary, A son may lawfully enter religion though his father command him to marry. Therefore he is not bound to obey him in this.

Further, If he were bound to obey, a betrothal contracted by the parents would hold good without their children's consent But this is against the law (cap. *Ex literis*, De despon. impub.). Therefore, etc.

I answer that, Since in marriage there is a kind of perpetual service, as it were, a father cannot by his command compel his son to marry, since the latter is of free condition: but he may induce him for a reasonable cause; and thus the son will be affected by his father's command in the same way as he is affected by that cause, so that if the cause be compelling as indicating either obligation or fitness, his father's command will compel him in the same measure: otherwise he may not compel him.

Reply Obj. 1. The words of the Apostle do not refer to those matters in which a man is his own master as the father is. Such is marriage by which the son also becomes a father.

Reply Obj. 2. There were other motives why Jacob was bound to do what Isaac commanded him, both on account of the wickedness of those women, and because the seed of Chanaan was to be cast forth from the land which was promised to the seed of the patriarchs. Hence Isaac could command this.

Reply Obj. 3. They do not swear except with the implied condition *if it please them ;* and they are bound to induce them in good faith.

Reply Obj. 4. Some say that the Pope cannot command a man to accept a bishopric, because consent should be free. But if this be granted there would be an end of ecclesiastical order, for unless a man can be compelled to accept the government of a church, the Church could not be preserved, since sometimes those who are qualified for the purpose are unwilling to accept unless they be compelled. Therefore we must reply that the two cases are not parallel; for there is no bodily service in a spiritual marriage as there is in the bodily marriage; because the spiritual marriage is a kind of office for dispensing the public weal: *Let a man so account of us as of the ministers of Christ, and the dispensers of the mysteries of God* (1 Cor. iv. 1).

QUESTION XLVIII.

OF THE OBJECT OF THE CONSENT.

(*In Two Articles.*)

We must now consider the object of the consent. Under this head there are two points of inquiry: (1) Whether the consent that makes a marriage is a consent to carnal intercourse? (2) Whether consent to marry a person for an immoral motive makes a marriage?

First Article.

WHETHER THE CONSENT THAT MAKES A MARRIAGE IS A CONSENT TO CARNAL INTERCOURSE?

We proceed thus to the First Article :—

Objection 1. It would seem that the consent which makes a marriage is a consent to carnal intercourse. For Jerome* says that *for those who have vowed virginity it is wicked, not only to marry, but even to wish to marry.* But it would not be wicked unless it were contrary to virginity, and marriage is not contrary to virginity except by reason of carnal intercourse. Therefore the will's consent in marriage is a consent to carnal intercourse.

Obj. 2. Further, Whatever there is in marriage between husband and wife is lawful between brother and sister except carnal intercourse. But there cannot lawfully be a consent to marriage between them. Therefore the marriage consent is a consent to carnal intercourse.

Obj. 3. Further, If the woman say to the man: *I consent to take thee provided however that you know me not,* it is not

* The words quoted are found implicitly in S. Augustine (*De Bono Viduit.* ix.).

a marriage consent, because it contains something against the essence of that consent. Yet this would not be the case unless the marriage consent were a consent to carnal intercourse. Therefore, etc.

Obj. 4. Further, In everything the beginning corresponds to the consummation. Now marriage is consummated by carnal intercourse. Therefore, since it begins by the consent, it would seem that the consent is to carnal intercourse.

On the contrary, No one that consents to carnal intercourse is a virgin in mind and body. Yet Blessed John the evangelist after consenting to marriage was a virgin both in mind and body. Therefore he did not consent to carnal intercourse.

Further, The effect corresponds to its cause. Now consent is the cause of marriage. Since then carnal intercourse is not essential to marriage, seemingly neither is the consent which causes marriage a consent to carnal intercourse.

I answer that, The consent that makes a marriage is a consent to marriage, because the proper effect of the will is the thing willed. Wherefore, according as carnal intercourse stands in relation to marriage, so far is the consent that causes marriage a consent to carnal intercourse. Now, as stated above (Q. XLIV., A. 1; Q. XLV., AA. 1, 2), marriage is not essentially the carnal union itself, but a certain joining together of husband and wife ordained to carnal intercourse, and a further consequent union between husband and wife, in so far as they each receive power over the other in reference to carnal intercourse, which joining together is called the nuptial bond. Hence it is evident that they said well who asserted that to consent to marriage is to consent to carnal intercourse implicitly and not explicitly. For carnal intercourse is not to be understood, except as an effect is implicitly contained in its cause, for the power to have carnal intercourse, which power is the object of the consent, is the cause of carnal intercourse, just as the power to use one's own thing is the cause of the use.

Reply Obj. 1. The reason why consent to marriage after taking the vow of virginity is sinful, is because that consent gives a power to do what is unlawful: even so would a man sin if he gave another man the power to receive that which he has in deposit, and not only by actually delivering it to him. With regard to the consent of the Blessed Virgin, we have spoken about it above (iv. *Sent.* D. 3; P. III., Q. XXIX., A. 2).

Reply Obj. 2. Between brother and sister there can be no power of one over the other in relation to carnal intercourse, even as neither can there be lawfully carnal intercourse itself. Consequently the argument does not prove.

Reply Obj. 3. Such an explicit condition is contrary not only to the act but also to the power of carnal intercourse, and therefore it is contrary to marriage.

Reply Obj. 4. Marriage begun corresponds to marriage consummated, as habit or power corresponds to the act which is operation.

The arguments on the contrary side show that consent is not given explicitly to carnal intercourse; and this is true.

Second Article.

Whether marriage can result from one person's consent to take another for a base motive?

We proceed thus to the Second Article:—

Objection 1. It would seem that marriage cannot result from one person's consent to take another for a base motive. For there is but one reason for one thing. Now marriage is one sacrament. Therefore it cannot result from the intention of any other end than that for which it was instituted by God; namely the begetting of children.

Obj. 2. Further, The marriage union is from God, according to Matth. xix. 6, *What . . . God hath joined together let no man put asunder.* But a union that is made for immoral motives is not from God. Therefore it is not a marriage.

Obj. 3. Further, In the other sacraments, if the intention

of the Church be not observed, the sacrament is invalid. Now the intention of the Church in the sacrament of matrimony is not directed to a base purpose. Therefore, if a marriage be contracted for a base purpose, it will not be a valid marriage.

Obj. 4. Further, According to Boethius (*Topic.*), *a thing is good if its end be good.* But matrimony is always good. Therefore it is not matrimony if it is done for an evil end.

Obj. 5. Further, Matrimony signifies the union of Christ with the Church; and in this there can be nothing base. Neither therefore can marriage be contracted for a base motive.

On the contrary, He who baptizes another for the sake of gain baptizes validly. Therefore if a man marries a woman for the purpose of gain it is a valid marriage.

Further, The same conclusion is proved by the examples and authorities quoted in the text (iv. *Sent.* D. 30).

I answer that, The final cause of marriage may be taken as twofold, namely essential and accidental. The essential cause of marriage is the end to which it is by its very nature ordained, and this is always good, namely the begetting of children and the avoiding of fornication. But the accidental final cause thereof is that which the contracting parties intend as the result of marriage. And since that which is intended as the result of marriage is consequent upon marriage, and since that which comes first is not altered by what comes after, but conversely; marriage does not become good or evil by reason of that cause, but the contracting parties to whom this cause is the essential end. And since accidental causes are infinite in number, it follows that there can be an infinite number of such causes in matrimony, some of which are good and some bad.

Reply Obj. 1. This is true of the essential and principal cause; but that which has one essential and principal end may have several secondary essential ends, and an infinite number of accidental ends.

Reply Obj. 2. The joining together can be taken for the relation itself which is marriage, and that is always from

God, and is good, whatever be its cause; or for the act of those who are being joined together, and thus it is sometimes evil and is not from God simply. Nor is it unreasonable that an effect be from God, the cause of which is evil, such as a child born of adultery; for it is not from that cause as evil, but as having some good in so far as it is from God, although it is not from God simply.

Reply Obj. 3. The intention of the Church whereby she intends to confer a sacrament is essential to each sacrament, so that if it be not observed, all sacraments are null. But the intention of the Church whereby she intends an advantage resulting from the sacrament belongs to the well-being and not to the essence of a sacrament; wherefore, if it be not observed, the sacrament is none the less valid. Yet he who omits this intention sins; for instance if in baptism one intend not the healing of the mind which the Church intends. In like manner he who intends to marry, although he fail to direct it to the end which the Church intends, nevertheless contracts a valid marriage.

Reply Obj. 4. This evil which is intended is the end not of marriage, but of the contracting parties.

Reply Obj. 5. The union itself, and not the action of those who are united, is the sign of the union of Christ with the Church; wherefore the conclusion does not follow.

QUESTION XLIX.

OF THE MARRIAGE GOODS.*

(In Six Articles.)

In the next place we must consider the marriage goods. Under this head there are six points of inquiry: (1) Whether certain goods are necessary in order to excuse marriage? (2) Whether those assigned are sufficient? (3) Whether the sacrament is the principal among the goods? (4) Whether the marriage act is excused from sin by the aforesaid goods? (5) Whether it can ever be excused from sin without them? (6) Whether in their absence it is always a mortal sin?

First Article.

WHETHER CERTAIN BLESSINGS ARE NECESSARY IN ORDER TO EXCUSE MARRIAGE?

We proceed thus to the First Article :—

Objection 1. It would seem that certain blessings are not necessary in order to excuse marriage. For just as the preservation of the individual which is effected by the nutritive power is intended by nature, so too is the preservation of the species which is effected by marriage; and indeed so much the more as the good of the species is better and more exalted than the good of the individual. But no goods are necessary to excuse the act of the nutritive power. Neither therefore are they necessary to excuse marriage.

Obj. 2. Further, According to the Philosopher (*Ethic.*

* *Bona matrimonii*, variously rendered marriage goods, marriage blessings, and advantages of marriage.

viii. 12) the friendship between husband and wife is natural, and includes the virtuous, the useful, and the pleasant. But that which is virtuous in itself needs no excuse. Therefore neither should any goods be assigned for the excuse of matrimony.

Obj. 3. Further, Matrimony was instituted as a remedy and as an office, as stated above (Q. XLII., A. 2). Now it needs no excuse in so far as it is instituted as an office, since then it would also have needed an excuse in paradise, which is false, for there, as Augustine says, *marriage would have been without reproach and the marriage-bed without stain* (*Gen. ad Lit.* ix.) In like manner neither does it need an excuse in so far as it is intended as a remedy, any more than the other sacraments which were instituted as remedies for sin. Therefore matrimony does not need these excuses.

Obj. 4. Further, The virtues are directed to whatever can be done aright. If then marriage can be righted by certain goods, it needs nothing else to right it besides the virtues of the soul; and consequently there is no need to assign to matrimony any goods whereby it is righted, any more than to other things in which the virtues direct us.

On the contrary, Wherever there is indulgence, there must needs be some reason for excuse. Now marriage is allowed in the state of infirmity *by indulgence* (1 Cor. vii. 6). Therefore it needs to be excused by certain goods.

Further, The intercourse of fornication and that of marriage are of the same species as regards the species of nature. But the intercourse of fornication is wrong in itself. Therefore, in order that the marriage intercourse be not wrong, something must be added to it to make it right, and draw it to another moral species.

I answer that, No wise man should allow himself to lose a thing except for some compensation in the shape of an equal or better good. Wherefore for a thing that has a loss attached to it to be eligible, it needs to have some good connected with it, which by compensating for that loss makes that thing ordinate and right. Now there is a loss of reason incidental to the union of man and woman,

both because the reason is carried away entirely on account of the vehemence of the pleasure, so that it is unable to understand anything at the same time, as the Philosopher says (*Ethic.* vii. 11); and again because of the tribulation of the flesh which such persons have to suffer from solicitude for temporal things (1 Cor. vii. 28). Consequently the choice of this union cannot be made ordinate except by certain compensations whereby that same union is righted; and these are the goods which excuse marriage and make it right.

Reply Obj. 1. In the act of eating there is not such an intense pleasure overpowering the reason as in the aforesaid action, both because the generative power, whereby original sin is transmitted, is infected and corrupt, whereas the nutritive power, by which original sin is not transmitted, is neither corrupt nor infected; and again because each one feels in himself a defect of the individual more than a defect of the species. Hence, in order to entice a man to take food which supplies a defect of the individual, it is enough that he feel this defect; but in order to entice him to the act whereby a defect of the species is remedied, Divine providence attached pleasure to that act, which moves even irrational animals in which there is not the stain of original sin. Hence the comparison fails.

Reply Obj. 2. These goods which justify marriage belong to the nature of marriage, which consequently needs them, not as extrinsic causes of its rectitude, but as causing in it that rectitude which belongs to it by nature.

Reply Obj. 3. From the very fact that marriage is intended as an office or as a remedy it has the aspect of something useful and right; nevertheless both aspects belong to it from the fact that it has these goods by which it fulfils the office and affords a remedy to concupiscence.

Reply Obj. 4. An act of virtue may derive its rectitude both from the virtue as its elicitive principle, and from its circumstances as its formal principles; and the goods of marriage are related to marriage as circumstances to an act of virtue which owes it to those circumstances that it can be an act of virtue.

Second Article.

whether the goods of marriage are sufficiently enumerated?

We proceed thus to the Second Article:—

Objection 1. It would seem that the goods of marriage are insufficiently enumerated by the Master (iv. *Sent.* D. 31), namely *faith, offspring, and sacrament.* For the object of marriage among men is not only the begetting and feeding of children, but also the partnership of a common life, whereby each one contributes his share of work to the common stock, as stated in *Ethic.* viii. 12. Therefore as the offspring is reckoned a good of matrimony, so also should the communication of works.

Obj. 2. Further, The union of Christ with the Church, signified by matrimony, is the effect of charity. Therefore charity rather than faith should be reckoned among the goods of matrimony.

Obj. 3. Further, In matrimony just as it is required that neither party have intercourse with another, so is it required that the one pay the marriage debt to the other. Now the former pertains to faith according to the Master (*loc. cit.*). Therefore justice should also be reckoned among the goods of marriage on account of the payment of the debt.

Obj. 4. Further, In matrimony as signifying the union of Christ with the Church, just as indivisibility is required, so also is unity, whereby one man has one wife. But the sacrament which is reckoned among the three marriage goods pertains to indivisibility. Therefore there should be something else pertaining to unity.

Obj. 5. *On the other hand,* it would seem that they are too many. For one virtue suffices to make one act right. Now faith is one virtue. Therefore it was not necessary to add two other goods to make marriage right.

Obj. 6. Further, The same cause does not make a thing both useful and virtuous, since the useful and the virtuous are opposite divisions of the good. Now marriage derives its character of useful from the offspring. Therefore the

offspring should not be reckoned among the goods that make marriage virtuous.

Obj. 7. Further, Nothing should be reckoned as a property or condition of itself. Now these goods are reckoned to be conditions of marriage. Therefore since matrimony is a sacrament, the sacrament should not be reckoned a condition of matrimony.

I answer that, Matrimony is instituted both as an office of nature and as a sacrament of the Church. As an office of nature it is directed by two things, like every other virtuous act. One of these is required on the part of the agent and is the intention of the due end, and thus the *offspring* is accounted a good of matrimony; the other is required on the part of the act, which is good generically through being about a due matter; and thus we have *faith,* whereby a man has intercourse with his wife and with no other woman. Besides this it has a certain goodness as a sacrament, and this is signified by the very word *sacrament.*

Reply Obj. 1. Offspring signifies not only the begetting of children, but also their education, to which as its end is directed the entire communion of works that exists between man and wife as united in marriage, since parents naturally *lay up* for their *children* (2 Cor. xii. 14); so that the offspring like a principal end includes another, as it were, secondary end.

Reply Obj. 2. Faith is not taken here as a theological virtue, but as part of justice, in so far as faith (*fides*) signifies the suiting of deed to word (*fiant dicta*) by keeping one's promises; for since marriage is a contract it contains a promise whereby this man is assigned to this woman.

Reply Obj. 3. Just as the marriage promise means that neither party is to have intercourse with a third party, so does it require that they should mutually pay the marriage debt. The latter is indeed the chief of the two, since it follows from the power which each receives over the other. Consequently both these things pertain to faith, although the Book of Sentences mentions that which is the less manifest.

Reply Obj. 4. By sacrament we are to understand not

only indivisibility, but all those things that result from marriage being a sign of Christ's union with the Church. We may also reply that the unity to which the objection refers pertains to faith, just as indivisibility belongs to the sacrament.

Reply Obj. 5. Faith here does not denote a virtue, but that condition of virtue which is a part of justice and is called by the name of faith.

Reply Obj. 6. Just as the right use of a useful good derives its rectitude not from the useful but from the reason which causes the right use, so too direction to a useful good may cause the goodness of rectitude by virtue of the reason causing the right direction; and in this way marriage, through being directed to the offspring, is useful, and nevertheless righteous, inasmuch as it is directed aright.

Reply Obj. 7. As the Master says (iv. *Sent.* D. 31), sacrament here does not mean matrimony itself, but its indissolubility, which is a sign of the same thing as matrimony is.

We may also reply that although marriage is a sacrament, marriage as marriage is not the same as marriage as a sacrament, since it was instituted not only as a sign of a sacred thing, but also as an office of nature. Hence the sacramental aspect is a condition added to marriage considered in itself, whence also it derives its rectitude. Hence its sacramentality, if I may use the term, is reckoned among the goods which justify marriage; and accordingly this third good of marriage, the sacrament to wit, denotes not only its indissolubility, but also whatever pertains to its signification.

Third Article.

whether the sacrament is the chief of the marriage goods?

We proceed thus to the Third Article :—

Objection 1. It would seem that the *sacrament* is not the chief of the marriage goods. For the end is principal in everything. Now the end of marriage is the offspring. Therefore the offspring is the chief marriage good.

Obj. 2. Further, In the specific nature the difference is more important than the genus, even as the form is more important than matter in the composition of a natural thing. Now *sacrament* refers to marriage on the part of its genus, while *offspring* and *faith* refer thereto on the part of the difference whereby it is a special kind of sacrament. Therefore these other two are more important than sacrament in reference to marriage.

Obj. 3. Further, Just as we find marriage without *offspring* and without *faith*, so do we find it without indissolubility, as in the case where one of the parties enters religion before the marriage is consummated. Therefore neither from this point of view is *sacrament* the most important marriage good.

Obj. 4. Further, An effect cannot be more important than its cause. Now consent, which is the cause of matrimony, is often changed. Therefore the marriage also can be dissolved, and consequently inseparability is not always a condition of marriage.

Obj. 5. Further, The sacraments which produce an everlasting effect imprint a character. But no character is imprinted in matrimony. Therefore it is not conditioned by a lasting inseparability. Consequently just as there is marriage without *offspring* so is there marriage without *sacrament*, and thus the same conclusion follows as above.

On the contrary, That which has a place in the definition of a thing is most essential thereto. Now inseparability, which pertains to sacrament, is placed in the definition of marriage (Q. XLIV., A. 3), while offspring and faith are not. Therefore among the other goods sacrament is the most essential to matrimony.

Further, the Divine power which works in the sacraments is more efficacious than human power. But *offspring* and *faith* pertain to matrimony as directed to an office of human nature, whereas *sacrament* pertains to it as instituted by God. Therefore sacrament takes a more important part in marriage than the other two.

I answer that, This or that may be more important to a

thing in two ways, either because it is more essential or because it is more excellent. If the reason is because it is more excellent, then *sacrament* is in every way the most important of the three marriage goods, since it belongs to marriage considered as a sacrament of grace; while the other two belong to it as an office of nature; and a perfection of grace is more excellent than a perfection of nature. If, however, it is said to be more important because it is more essential, we must draw a distinction; for *faith* and *offspring* can be considered in two ways. First, in themselves, and thus they regard the use of matrimony in begetting children and observing the marriage compact; while inseparability, which is denoted by *sacrament*, regards the very sacrament considered in itself, since from the very fact that by the marriage compact man and wife give to one another power the one over the other in perpetuity, it follows that they cannot be put asunder. Hence there is no matrimony without inseparability, whereas there is matrimony without *faith* and *offspring*, because the existence of a thing does not depend on its use; and in this sense *sacrament* is more essential to matrimony than *faith* and *offspring*. Secondly, *faith* and *offspring* may be considered as in their principles, so that *offspring* denote the intention of having children, and *faith* the duty of remaining faithful, and there can be no matrimony without these also, since they are caused in matrimony by the marriage compact itself, so that if anything contrary to these were expressed in the consent which makes a marriage, the marriage would be invalid. Taking *faith* and *offspring* in this sense, it is clear that *offspring* is the most essential thing in marriage, secondly *faith*, and thirdly *sacrament;* even as to man it is more essential to be in nature than to be in grace, although it is more excellent to be in grace.

Reply Obj. 1. The end as regards the intention stands first in a thing, but as regards the attainment it stands last. It is the same with *offspring* among the marriage goods; wherefore in a way it is the most important and in another way it is not.

Reply Obj. 2. *Sacrament*, even as holding the third place among the marriage goods, belongs to matrimony by reason of its difference; for it is called *sacrament* from its signification of that particular sacred thing which matrimony signifies.

Reply Obj. 3. According to Augustine (*De Bono Conjug.* ix.), marriage is a good of mortals, wherefore in the resurrection *they shall neither marry nor be married* (Matth. xxii. 30). Hence the marriage bond does not last after the life wherein it is contracted, and consequently it is said to be inseparable, because it cannot be sundered in this life, but either by bodily death after carnal union, or by spiritual death after a merely spiritual union.

Reply Obj. 4. Although the consent which makes a marriage is not everlasting materially, i.e. in regard to the substance of the act, since that act ceases and a contrary act may succeed it, nevertheless formally speaking it is everlasting, because it is a consent to an everlasting bond, else it would not make a marriage, for a consent to take a woman for a time makes no marriage. Hence it is everlasting formally, inasmuch as an act takes its species from its object; and thus it is that matrimony derives its inseparability from the consent.

Reply Obj. 5. In those sacraments wherein a character is imprinted, power is given to perform spiritual actions; but in matrimony, to perform bodily actions. Wherefore matrimony by reason of the power which man and wife receive over one another agrees with the sacraments in which a character is imprinted, and from this it derives its inseparability, as the Master says (iv. *Sent.* D. 31); yet it differs from them in so far as that power regards bodily acts; hence it does not confer a spiritual character.

Fourth Article.

whether the marriage act is excused by the aforesaid goods?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that the marriage act cannot be altogether excused from sin by the aforesaid goods. For whoever allows himself to lose a greater good for the sake of a lesser good sins because he allows it inordinately. Now the good of reason which is prejudiced in the marriage act is greater than these three marriage goods. Therefore the aforesaid goods do not suffice to excuse marriage intercourse.

Obj. 2. Further, If a moral good be added to a moral evil the sum total is evil and not good, since one evil circumstance makes an action evil, whereas one good circumstance does not make it good. Now the marriage act is evil in itself, else it would need no excuse. Therefore the addition of the marriage goods cannot make the act good.

Obj. 3. Further, Wherever there is immoderate passion there is moral vice. Now the marriage goods cannot prevent the pleasure in that act from being immoderate. Therefore they cannot excuse it from being a sin.

Obj. 4. Further, According to Damascene (*De Fide Orthod.* ii.), shame is only caused by a disgraceful deed. Now the marriage goods do not deprive that deed of its shame. Therefore they cannot excuse it from sin.

On the contrary, The marriage act differs not from fornication except by the marriage goods. If therefore these were not sufficient to excuse it marriage would be always unlawful; and this is contrary to what was stated above (Q. XLI., A. 3).

Further, The marriage goods are related to its act as its due circumstances, as stated above (A. 1, *ad* 4). Now the like circumstances are sufficient to prevent an action from being evil. Therefore these goods can excuse marriage so that it is nowise a sin.

I answer that, An act is said to be excused in two ways.

First, on the part of the agent, so that although it be evil it is not imputed as sin to the agent, or at least not as so grave a sin; thus ignorance is said to excuse a sin wholly or partly. Secondly, an act is said to be excused on its part, so that, namely, it is not evil; and it is thus that the aforesaid goods are said to excuse the marriage act. Now it is from the same cause that an act is not morally evil, and that it is good, since there is no such thing as an indifferent act as was stated in the Second Book (ii. *Sent.* D. 40; I.-II., Q. XVIII., A. 9). Now a human act is said to be good in two ways. In one way by goodness of virtue, and thus an act derives its goodness from those things which place it in the mean. This is what *faith* and *offspring* do in the marriage act, as stated above (A. 2). In another way, by goodness of the *sacrament*, in which way an act is said to be not only good, but also holy, and the marriage act derives this goodness from the indissolubility of the union, in respect of which it signifies the union of Christ with the Church. Thus it is clear that the aforesaid goods sufficiently excuse the marriage act.

Reply Obj. 1. By the marriage act man does not incur harm to his reason as to habit, but only as to act. Nor is it unfitting that a certain act which is generically better be sometimes interrupted for some less good act; for it is possible to do this without sin, as in the case of one who ceases from the act of contemplation in order meanwhile to devote himself to action.

Reply Obj. 2. This argument would avail if the evil that is inseparable from carnal intercourse were an evil of sin. But in this case it is an evil not of sin but of punishment alone, consisting in the rebellion of concupiscence against reason; and consequently the conclusion does not follow.

Reply Obj. 3. The excess of passion that amounts to a sin does not refer to the passion's quantitative intensity, but to its proportion to reason; wherefore it is only when a passion goes beyond the bounds of reason that it is reckoned to be immoderate. Now the pleasure attaching to the marriage act, while it is most intense in point of

quantity, does not go beyond the bounds previously appointed by reason before the commencement of the act, although reason is unable to regulate them during the pleasure itself.

Reply Obj. 4. The turpitude that always accompanies the marriage act and always causes shame is the turpitude of punishment, not of sin, for man is naturally ashamed of any defect.

Fifth Article.

Whether the marriage act can be excused without the marriage goods?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that the marriage act can be excused even without the marriage goods. For he who is moved by nature alone to the marriage act, apparently does not intend any of the marriage goods, since the marriage goods pertain to grace or virtue. Yet when a person is moved to the aforesaid act by the natural appetite alone, seemingly he commits no sin, for nothing natural is an evil, since *evil is contrary to nature and order*, as Dionysius says (*Div. Nom.* iv.). Therefore the marriage act can be excused even without the marriage goods.

Obj. 2. Further, He who has intercourse with his wife in order to avoid fornication, does not seemingly intend any of the marriage goods. Yet he does not sin apparently, because marriage was granted to human weakness for the very purpose of avoiding fornication (1 Cor. vii. 2, 6). Therefore the marriage act can be excused even without the marriage goods.

Obj. 3. Further, He who uses as he will that which is his own does not act against justice, and thus seemingly does not sin. Now marriage makes the wife the husband's own, and *vice versa*. Therefore, if they use one another at will through the instigation of lust, it would seem that it is no sin; and thus the same conclusion follows.

Obj. 4. Further, That which is good generically does not become evil unless it be done with an evil intention. Now

the marriage act whereby a husband knows his wife is generically good. Therefore it cannot be evil unless it be done with an evil intention. Now it can be done with a good intention, even without intending any marriage good, for instance by intending to keep or acquire bodily health. Therefore it seems that this act can be excused even without the marriage goods.

On the contrary, If the cause be removed the effect is removed. Now the marriage goods are the cause of rectitude in the marriage act. Therefore the marriage act cannot be excused without them.

Further, The aforesaid act does not differ from the act of fornication except in the aforesaid goods. But the act of fornication is always evil. Therefore the marriage act also will always be evil unless it be excused by the aforesaid goods.

I answer that, Just as the marriage goods, in so far as they consist in a habit, make a marriage honest and holy, so too, in so far as they are in the actual intention, they make the marriage act honest, as regards these two marriage goods which relate to the marriage act. Hence when married persons come together for the purpose of begetting children, or of paying the debt to one another (which pertains to *faith*), they are wholly excused from sin. But the third good does not relate to the use of marriage, but to its excuse, as stated above (A. 3); wherefore it makes marriage itself honest, but not its act, as though its act were wholly excused from sin, through being done on account of some signification. Consequently there are only two ways in which married persons can come together without any sin at all, namely in order to have offspring, and in order to pay the debt; otherwise it is always at least a venial sin.

Reply Obj. 1. The offspring considered as a marriage good includes something besides the offspring as a good intended by nature. For nature intends offspring as safeguarding the good of the species, whereas the offspring as a good of the sacrament of marriage includes besides this the directing of the child to God. Wherefore the intention

of nature which intends the offspring must needs be referred either actually or habitually to the intention of having an offspring, as a good of the sacrament: otherwise the intention would go no further than a creature; and this is always a sin. Consequently whenever nature alone moves a person to the marriage act, he is not wholly excused from sin, except in so far as the movement of nature is further directed actually or habitually to the offspring as a good of the sacrament. Nor does it follow that the instigation of nature is evil, but that it is imperfect unless it be further directed to some marriage good.

Reply Obj. 2. If a man intends by the marriage act to prevent fornication in his wife, it is no sin, because this is a kind of payment of the debt that comes under the good of *faith*. But if he intends to avoid fornication in himself, then there is a certain superfluity, and accordingly there is a venial sin, nor was the sacrament instituted for that purpose, except by indulgence, which regards venial sins.

Reply Obj. 3. One due circumstance does not suffice to make a good act, and consequently it does not follow that, no matter how one use one's own property, the use is good, but when one uses it as one ought according to all the circumstances.

Reply Obj. 4. Although it is not evil in itself to intend to keep oneself in good health, this intention becomes evil, if one intend health by means of something that is not naturally ordained for that purpose; for instance if one sought only bodily health by the sacrament of baptism, and the same applies to the marriage act in the question at issue.

Sixth Article.

Whether it is a mortal sin for a man to have knowledge of his wife, with the intention not of a marriage good but merely of pleasure?

We proceed thus to the Sixth Article:—

Objection 1. It would seem that whenever a man has knowledge of his wife, with the intention not of a marriage

good but merely of pleasure, he commits a mortal sin. For according to Jerome (*Comment. in Eph.* v. 25), as quoted in the text (iv. *Sent.* D. 31), *the pleasure taken in the embraces of a wanton is damnable in a husband.* Now nothing but mortal sin is said to be damnable. Therefore it is always a mortal sin to have knowledge of one's wife for mere pleasure.

Obj. 2. Further, Consent to pleasure is a mortal sin, as stated in the Second Book (ii. *Sent.* D. 24). Now whoever knows his wife for the sake of pleasure consents to the pleasure. Therefore he sins mortally.

Obj. 3. Further, Whoever fails to refer the use of a creature to God enjoys a creature, and this is a mortal sin. But whoever uses his wife for mere pleasure does not refer that use to God. Therefore he sins mortally.

Obj. 4. Further, No one should be excommunicated except for a mortal sin. Now according to the text (*loc. cit.*) a man who knows his wife for mere pleasure is debarred from entering the Church, as though he were excommunicate. Therefore every such man sins mortally.

On the contrary, As stated in the text (*loc. cit.*), according to Augustine (*Contra Jul.* ii. 10; *De Decem Chord.* xi.; *Serm.* xli., *de Sanct.*), carnal intercourse of this kind is one of the daily sins, for which we say the *Our Father.* Now these are not mortal sins. Therefore, etc.

Further, It is no mortal sin to take food for mere pleasure. Therefore in like manner it is not a mortal sin for a man to use his wife merely to satisfy his desire.

I answer that, Some say that whenever pleasure is the chief motive for the marriage act it is a mortal sin; that when it is an indirect motive it is a venial sin; and that when it spurns the pleasure altogether and is displeasing, it is wholly void of venial sin; so that it would be a mortal sin to seek pleasure in this act, a venial sin to take the pleasure when offered, but that perfection requires one to detest it. But this is impossible, since according to the Philosopher (*Ethic.* x. 3, 4) the same judgment applies to pleasure as to action, because pleasure in a good action

is good, and in an evil action, evil; wherefore, as the marriage act is not evil in itself, neither will it be always a mortal sin to seek pleasure therein. Consequently the right answer to this question is that if pleasure be sought in such a way as to exclude the honesty of marriage, so that, to wit, it is not as a wife but as a woman that a man treats his wife, and that he is ready to use her in the same way if she were not his wife, it is a mortal sin; wherefore such a man is said to be too ardent a lover of his wife, because his ardour carries him away from the goods of marriage. If, however, he seek pleasure within the bounds of marriage, so that it would not be sought in another than his wife, it is a venial sin.

Reply Obj. 1. A man seeks wanton pleasure in his wife when he sees no more in her than he would in a wanton.

Reply Obj. 2. Consent to the pleasure of the intercourse that is a mortal sin is itself a mortal sin; but such is not the consent to the marriage act.

Reply Obj. 3. Although he does not actually refer the pleasure to God, he does not place his will's last end therein; otherwise he would seek it anywhere indifferently. Hence it does not follow that he enjoys a creature; but he uses a creature actually for his own sake, and himself habitually, though not actually, for God's sake.

Reply Obj. 4. The reason for this statement is not that man deserves to be excommunicated for this sin, but because he renders himself unfit for spiritual things, since in that act he becomes flesh and nothing more.

QUESTION L.

OF THE IMPEDIMENTS OF MARRIAGE, IN GENERAL.

(*In One Article.*)

In the next place we must consider the impediments of marriage: (1) In general; (2) in particular.

Article.

WHETHER IT IS FITTING THAT IMPEDIMENTS SHOULD BE ASSIGNED TO MARRIAGE?

We proceed thus to this Article:—

Objection 1. It would seem unfitting for impediments to be assigned to marriage. For marriage is a sacrament condivided with the others. But no impediments are assigned to the others. Neither therefore should they be assigned to marriage.

Obj. 2. Further, The less perfect a thing is the fewer its obstacles. Now matrimony is the least perfect of the sacraments. Therefore it should have either no impediments or very few.

Obj. 3. Further, Wherever there is disease, it is necessary to have a remedy for the disease. Now concupiscence, a remedy for which is permitted in matrimony (1 Cor. vii. 6), is in all. Therefore there should not be any impediment making it altogether unlawful for a particular person to marry.

Obj. 4. Further, Unlawful means against the law. Now these impediments that are assigned to matrimony are not against the natural law, because they are not found to be the same in each state of the human race, since more

degrees of kindred come under prohibition at one time than at another. Nor, seemingly, can human law set up impediments against marriage, since marriage, like the other sacraments, is not of human but of Divine institution. Therefore impediments should not be assigned to marriage, making it unlawful for a person to marry.

Obj. 5. Further, Lawful and unlawful differ as that which is against the law from that which is not, and between these there is no middle term, since they are opposed according to affirmation and negation. Therefore there cannot be impediments to marriage, placing a person in a middle position between those who are lawful and those who are unlawful subjects of marriage.

Obj. 6. Further, Union of man and woman is unlawful save in marriage. Now every unlawful union should be dissolved. Therefore if anything prevent a marriage being contracted, it will *de facto* dissolve it after it has been contracted; and thus impediments should not be assigned to marriage, which hinder it from being contracted, and dissolve it after it has been contracted.

Obj. 7. Further, No impediment can remove from a thing that which is part of its definition. Now indissolubility is part of the definition of marriage. Therefore there cannot be any impediments which annul a marriage already contracted.

Obj. 8. *On the other hand,* it would seem that there should be an infinite number of impediments to marriage. For marriage is a good. Now good may be lacking in an infinite number of ways, as Dionysius says (*Div. Nom.* iii.). Therefore there is an infinite number of impediments to marriage.

Obj. 9. Further, The impediments to marriage arise from the conditions of individuals. But suchlike conditions are infinite in number. Therefore the impediments to marriage are also infinite.

I answer that, In marriage, as in other sacraments, there are certain things essential to marriage, and others that belong to its solemnization. And since even without the things that pertain to its solemnization it is still a true

sacrament, as also in the case of the other sacraments, it follows that the impediments to those things that pertain to the solemnization of this sacrament do not derogate from the validity of the marriage. These impediments are said to hinder the contracting of marriage, but they do not dissolve the marriage once contracted; such are the veto of the Church, or the holy seasons. Hence the verse:

> The veto of the Church and holy tide
> Forbid the knot, but loose it not if tied.

On the other hand, those impediments which regard the essentials of marriage make a marriage invalid, wherefore they are said not only to hinder the contracting of marriage, but to dissolve it if contracted; and they are contained in the following verse:

> Error, station, vow, kinship, crime,
> Difference of worship, force, holy orders,
> Marriage bond, honesty, affinity, impotence,
> All these forbid marriage, and annul it though contracted.

The reason for this number may be explained as follows: Marriage may be hindered either on the part of the contract or in regard to the contracting parties. If in the first way, since the marriage contract is made by voluntary consent, and this is incompatible with either ignorance or violence, there will be two impediments to marriage, namely *force*, i.e. compulsion, and *error* in reference to ignorance. Wherefore the Master pronounced on these two impediments when treating of the cause of matrimony (iv. *Sent.* DD. 29, 30). Here, however, he is treating of the impediments as arising from the contracting parties, and these may be differentiated as follows. A person may be hindered from contracting marriage either simply, or with some particular person. If simply, so that he be unable to contract marriage with any woman, this can only be because he is hindered from performing the marriage act. This happens in two ways. First, because he cannot *de facto*, either through being altogether unable,—and thus we have the impediment of *impotence*,—or through being unable to

do so freely, and thus we have the impediment of the *condition of slavery*. Secondly, because he cannot do it lawfully, and this because he is bound to continence, which happens in two ways, either through his being bound on account of the office he has undertaken to fulfil,—and thus we have the impediment of *Order*,—or on account of his having taken a vow,—and thus *Vow* is an impediment.

If, however, a person is hindered from marrying, not simply but in reference to a particular person, this is either because he is bound to another person, and thus he who is married to one cannot marry another, which constitutes the impediment of the *bond of marriage*,—or through lack of proportion to the other party, and this for three reasons. First, on account of too great a distance separating them, and thus we have *difference of worship*; secondly, on account of their being too closely related, and thus we have three impediments, namely *kinship*, then *affinity*, which denotes the close relationship between two persons, in reference to a third united to one of them by marriage, and the *justice of public honesty*, where we have a close relationship between two persons arising out of the betrothal of one of them to a third person; thirdly, on account of a previous undue union between him and the woman, and thus the *crime of adultery* previously committed with her is an impediment.

Reply Obj. 1. There may be impediments to the other sacraments also in the omission either of that which is essential, or of that which pertains to the solemnization of the sacrament, as stated above. However, impediments are assigned to matrimony rather than to the other sacraments for three reasons. First, because matrimony consists of two persons, and consequently can be impeded in more ways than the other sacraments which refer to one person taken individually; secondly, because matrimony has its cause in us and in God, while some of the other sacraments have their cause in God alone. Wherefore penance, which in a manner has a cause in us, is assigned certain impediments by the Master (iv. *Sent.* D. 16), such as hypocrisy, the

public games, and so forth; thirdly, because other sacraments are objects of command or counsel, as being more perfect goods, whereas marriage is a matter of indulgence, as being a less perfect good (1 Cor. vii. 6). Wherefore, in order to afford an opportunity of proficiency towards a greater good, more impediments are assigned to matrimony than to the other sacraments.

Reply Obj. 2. The more perfect things can be hindered in more ways, in so far as more conditions are required for them. And if an imperfect thing requires more conditions, there will be more impediments to it; and thus it is in matrimony.

Reply Obj. 3. This argument would hold, were there no other and more efficacious remedies for the disease of concupiscence; which is false.

Reply Obj. 4. Persons are said to be unlawful subjects for marriage through being contrary to the law whereby marriage is established. Now marriage as fulfilling an office of nature is established by the natural law; as a sacrament, by the Divine law; as fulfilling an office of society, by the civil law. Consequently a person may be rendered an unlawful subject of marriage by any of the aforesaid laws. Nor does the comparison with the other sacraments hold, for they are sacraments only. And since the natural law is particularized in various ways according to the various states of mankind, and since positive law, too, varies according to the various conditions of men, the Master (iv. *Sent.* D. 34) asserts that at various times various persons have been unlawful subjects of marriage.

Reply Obj. 5. The law may forbid a thing either altogether, or in part and in certain cases. Hence between that which is altogether according to the law and that which is altogether against the law (which are opposed by contrariety and not according to affirmation and negation), that which is somewhat according to the law and somewhat against the law is a middle term. For this reason certain persons hold a middle place between those who are simply lawful subjects and those who are simply unlawful.

Reply Obj. 6. Those impediments which do not annul a marriage already contracted sometimes hinder a marriage from being contracted, by rendering it not invalid but unlawful. And if it be contracted it is a true marriage although the contracting parties sin; just as by consecrating after breaking one's fast one would sin by disobeying the Church's ordinance, and yet it would be a valid sacrament because it is not essential to the sacrament that the consecrator be fasting.

Reply Obj. 7. When we say that the aforesaid impediments annul marriage already contracted, we do not mean that they dissolve a marriage contracted in due form, but that they dissolve a marriage contracted *de facto* and not *de jure*. Wherefore if an impediment supervene after a marriage has been contracted in due form, it cannot dissolve the marriage.

Reply Obj. 8. The impediments that hinder a good accidentally are infinite in number, like all accidental causes. But the causes which of their own nature corrupt a certain good are directed to that effect, and determinate, even as are the causes which produce that good; for the causes by which a thing is destroyed and those by which it is made are either contrary to one another, or the same but taken in a contrary way.

Reply Obj. 9. The conditions of particular persons taken individually are infinite in number, but taken in general, they may be reduced to a certain number; as instanced in medicine and all operative arts, which consider the conditions of particular persons in whom acts are.

QUESTION LI.

OF THE IMPEDIMENT OF ERROR.

(*In Two Articles.*)

WE must now consider the impediments to matrimony in particular, and in the first place the impediment of error. Under this head there are two points of inquiry: (1) Whether error of its very nature is an impediment to matrimony? (2) What kind of error?

FIRST ARTICLE.

WHETHER IT IS RIGHT TO RECKON ERROR AS AN IMPEDIMENT TO MARRIAGE?

We proceed thus to the First Article :—

Objection 1. It would seem that error should not be reckoned in itself an impediment to marriage. For consent, which is the efficient cause of marriage, is hindered in the same way as the voluntary. Now the voluntary, according to the Philosopher (*Ethic.* iii. 1), may be hindered by ignorance. But ignorance is not the same as error, because ignorance excludes knowledge altogether, whereas error does not, since *error is to approve the false as though it were true,* according to Augustine (*De Trin.* ix.). Therefore ignorance rather than error should have been reckoned here as an impediment to marriage.

Obj. 2. Further, That which of its very nature can be an impediment to marriage is in opposition to the good of marriage. But error is not a thing of this kind. Therefore error is not by its very nature an impediment to marriage.

Obj. 3. Further, Just as consent is required for marriage, so is intention required for baptism. Now if one were to baptize John, thinking to baptize Peter, John would be baptized none the less. Therefore error does not annul matrimony.

Obj. 4. Further, There was true marriage between Lia and Jacob, and yet, in this case, there was error. Therefore error does not annul a marriage.

On the contrary, It is said in the *Digests* (*Si per Errorem,* ff. De jurisdic. omn. judic.): *What is more opposed to consent than error?* Now consent is required for marriage. Therefore error is an impediment to matrimony.

Further, Consent denotes something voluntary. Now error is an obstacle to the voluntary, since *the voluntary,* according to the Philosopher (*Ethic.* iii. 1), Damascene (*De Fide Orthod.* ii.), and Gregory of Nyssa* (*De Nat. Hom.* xxxii.), *is that which has its principle in one who has knowledge of singulars which are the matter of actions.* But this does not apply to one who is in error. Therefore error is an impediment to matrimony.

I answer that, Whatever hinders a cause, of its very nature hinders the effect likewise. Now consent is the cause of matrimony, as stated above (Q. XLV., A. 1). Hence whatever voids the consent, voids marriage. Now consent is an act of the will, presupposing an act of the intellect; and if the first be lacking, the second must needs be lacking also. Hence, when error hinders knowledge, there follows a defect in the consent also, and consequently in the marriage. Therefore it is possible according to the natural law for error to void marriage.

Reply Obj. 1. Speaking simply, ignorance differs from error, because ignorance does not of its very nature imply an act of knowledge, while error supposes a wrong judgment of reason about something. However, as regards being an impediment to the voluntary, it differs not whether we call it ignorance or error, since no ignorance can be an impediment to the voluntary, unless it have error in con-

* Nemesius.

junction with it, because the will's act presupposes an estimate or judgment about something which is the object of the will. Wherefore if there be ignorance there must needs be error; and for this reason error is set down as being the proximate cause.

Reply Obj. 2. Although error is not of itself contrary to matrimony, it is contrary thereto as regards the cause of marriage.

Reply Obj. 3. The character of baptism is not caused directly by the intention of the baptizer, but by the material element applied outwardly; and the intention is effective only as directing the material element to its effect; whereas the marriage tie is caused by the consent directly. Hence the comparison fails.

Reply Obj. 4. According to the Master (iv. *Sent.* D. 30) the marriage between Lia and Jacob was effected not by their coming together, which happened through an error, but by their consent, which followed afterwards. Yet both are clearly to be excused from sin (*ibid.*).

Second Article.

whether every error is an impediment to matrimony?

We proceed thus to the Second Article :—

Objection 1. It would seem that every error is an impediment to matrimony, and not, as stated in the text (iv. *Sent.* D. xxx.), only error about the condition or the person. For that which applies to a thing as such applies to it in all its bearings. Now error is of its very nature an impediment to matrimony, as stated above (A. 1). Therefore every error is an impediment to matrimony.

Obj. 2. Further, If error, as such, is an impediment to matrimony, the greater the error the greater the impediment. Now the error concerning faith in a heretic who disbelieves in this sacrament is greater than an error concerning the person. Therefore it should be a greater impediment than error about the person.

Obj. 3. Further, Error does not void marriage except as removing voluntariness. Now ignorance about any circumstance takes away voluntariness (*Ethic.* iii. 1). Therefore it is not only error about condition or person that is an impediment to matrimony.

Obj. 4. Further, Just as the condition of slavery is an accident affecting the person, so are bodily or mental qualities. But error regarding the condition is an impediment to matrimony. Therefore error concerning quality or fortune is equally an impediment.

Obj. 5. Further, Just as slavery or freedom pertains to the condition of person, so do high and low rank, or dignity of position and the lack thereof. Now error regarding the condition of slavery is an impediment to matrimony. Therefore error about the other matters mentioned is also an impediment.

Obj. 6. Further, Just as the condition of slavery is an impediment, so are difference of worship, and impotence, as we shall say further on (Q. LII., A. 2; Q. LVIII., A. 1; Q. LIX., A. 1). Therefore just as error regarding the condition is an impediment, so also should error about those other matters be reckoned an impediment.

Obj. 7. *On the other hand,* it would seem that not even error about the person is an impediment to marriage. For marriage is a contract even as a sale is. Now in buying and selling the sale is not voided if one coin be given instead of another of equal value. Therefore a marriage is not voided if one woman be taken instead of another.

Obj. 8. Further, It is possible for them to remain in this error for many years and to beget between them sons and daughters. But it would be a grave assertion to maintain that they ought to be separated then. Therefore their previous error did not void their marriage.

Obj. 9. Further, It might happen that the woman is betrothed to the brother of the man whom she thinks that she is consenting to marry, and that she has had carnal intercourse with him; in which case, seemingly, she cannot go back to the man to whom she thought to give her con-

sent, but should hold on to his brother. Thus error regarding the person is not an impediment to marriage.

I answer that, Just as error, through causing involuntariness, is an excuse from sin, so on the same count is it an impediment to marriage. Now error does not excuse from sin unless it refer to a circumstance the presence or absence of which makes an action lawful or unlawful. For if a man were to strike his father with an iron rod thinking it to be of wood, he is not excused from sin wholly, although perhaps in part; but if a man were to strike his father, thinking to strike his son to correct him, he is wholly excused provided he take due care. Wherefore error, in order to void marriage, must needs be about the essentials of marriage. Now marriage includes two things, namely the two persons who are joined together, and the mutual power over one another wherein marriage consists. The first of these is removed by error concerning the person, the second by error regarding the condition, since a slave cannot freely give power over his body to another, without his master's consent. For this reason these two errors, and no others, are an impediment to matrimony.

Reply Obj. 1. It is not from its generic nature that error is an impediment to marriage, but from the nature of the difference added thereto; namely from its being error about one of the essentials to marriage.

Reply Obj. 2. An error of faith about matrimony is about things consequent upon matrimony, for instance on the question of its being a sacrament, or of its being lawful. Wherefore such error as these is no impediment to marriage, as neither does an error about baptism hinder a man from receiving the character, provided he intend to receive what the Church gives, although he believe it to be nothing.

Reply Obj. 3. It is not any ignorance of a circumstance that causes the involuntariness which is an excuse from sin, as stated above; wherefore the argument does not prove.

Reply Obj. 4. Difference of fortune or of quality does not make a difference in the essentials to matrimony, as the

condition of slavery does. Hence the argument does not prove.

Reply Obj. 5. Error about a person's rank, as such, does not void a marriage, for the same reason as neither does error about a personal quality. If, however, the error about a person's rank or position amounts to an error about the person, it is an impediment to matrimony. Hence, if the woman consent directly to this particular person, her error about his rank does not void the marriage: but if she intend directly to consent to marry the king's son, whoever he may be, then, if another man than the king's son be brought to her, there is error about the person, and the marriage will be void.

Reply Obj. 6. Error is an impediment to matrimony, although it be about other impediments to marriage if it concern those things which render a person an unlawful subject of marriage. But (the Master) does not mention error about such things, because they are an impediment to marriage whether there be error about them or not; so that if a woman contract with a subdeacon, whether she know this or not, there is no marriage; whereas the condition of slavery is no impediment if the slavery be known. Hence the comparison fails.

Reply Obj. 7. In contracts money is regarded as the measure of other things (*Ethic.* v. 5), and not as being sought for its own sake. Hence if the coin paid is not what it is thought to be but another of equal value, this does not void the contract. But if there be error about a thing sought for its own sake, the contract is voided, for instance if one were to sell a donkey for a horse; and thus it is in the case in point.

Reply Obj. 8. No matter how long they have cohabited, unless she be willing to consent again, there is no marriage.

Reply Obj. 9. If she did not consent previously to marry his brother, she may hold to the one whom she took in error. Nor can she return to his brother, especially if there has been carnal intercourse between her and the man she took to husband. If, however, she had previously con-

sented to take the first one in words of the present, she cannot have the second while the first lives. But she may either leave the second or return to the first; and ignorance of the fact excuses her from sin, just as she would be excused if after the consummation of the marriage a kinsman of her husband were to know her by fraud since she is not to be blamed for the other's deceit.

QUESTION LII.

OF THE IMPEDIMENT OF THE CONDITION OF SLAVERY.

(*In Four Articles.*)

We must now consider the impediment of the condition of slavery. Under this head there are four points of inquiry: (1) Whether the condition of slavery is an impediment to matrimony? (2) Whether a slave can marry without his master's consent? (3) Whether a man who is already married can make himself a slave without his wife's consent? (4) Whether the children should follow the condition of their father or of their mother?

First Article.

WHETHER THE CONDITION OF SLAVERY IS AN IMPEDIMENT TO MATRIMONY?

We proceed thus to the First Article:—

Objection 1. It would seem that the condition of slavery is no impediment to matrimony. For nothing is an impediment to marriage except what is in some way opposed to it. But slavery is in no way opposed to marriage, else there could be no marriage among slaves. Therefore slavery is no impediment to marriage.

Obj. 2. Further, That which is contrary to nature cannot be an impediment to that which is according to nature. Now slavery is contrary to nature, for as Gregory says (*Pastor.* ii. 6), *it is contrary to nature for man to wish to lord it over another man;* and this is also evident from the fact that it was said of man (Gen. i. 26) that he should *have dominion over the fishes of the sea*, but not that he should

have dominion over man. Therefore it cannot be an impediment to marriage, which is a natural thing.

Obj. 3. Further, If it is an impediment, this is either of natural law or of positive law. But it is not of natural law, since according to natural law all men are equal, as Gregory says (*loc. cit.*), while it is stated at the beginning of the *Digests* (*Manumissiones*, ff. de just. et jure.) that slavery is not of natural law; and positive law springs from the natural law, as Tully says (*De Invent.* ii.). Therefore, according to law, slavery is not an impediment to any marriage.

Obj. 4. Further, That which is an impediment to marriage is equally an impediment whether it be known or not, as in the case of consanguinity. Now the slavery of one party, if it be known to the other, is no impediment to their marriage. Therefore slavery, considered in itself, is unable to void a marriage; and consequently it should not be reckoned by itself as a distinct impediment to marriage.

Obj. 5. Further, Just as one may be in error about slavery, so as to deem a person free who is a slave, so may one be in error about freedom, so as to deem a person a slave whereas he is free. But freedom is not accounted an impediment to matrimony. Therefore neither should slavery be so accounted.

Obj. 7. Further, Leprosy is a greater burden to the fellowship of marriage and is a greater obstacle to the good of the offspring than slavery is. Yet leprosy is not reckoned an impediment to marriage. Therefore neither should slavery be so reckoned.

On the contrary, A Decretal says (De conjug. servorum, cap. *Ad nostram*) that *error regarding the condition hinders a marriage from being contracted and voids that which is already contracted.*

Further, Marriage is one of the goods that are sought for their own sake, because it is qualified by honesty; whereas slavery is one of the things to be avoided for their own sake. Therefore marriage and slavery are contrary to one another; and consequently slavery is an impediment to matrimony.

I answer that, In the marriage contract one party is bound to the other in the matter of paying the debt; wherefore if one who thus binds himself is unable to pay the debt, ignorance of this inability, on the side of the party to whom he binds himself, voids the contract. Now just as impotence in respect of coition makes a person unable to pay the debt, so that he is altogether disabled, so slavery makes him unable to pay it freely. Therefore, just as ignorance or impotence in respect of coition is an impediment if not known but not if known, as we shall state further on (Q. LVIII.), so the condition of slavery is an impediment if not known, but not if it be known.

Reply Obj. 1. Slavery is contrary to marriage as regards the act to which marriage binds one party in relation to the other, because it prevents the free execution of that act; and again as regards the good of the offspring who become subject to the same condition by reason of the parent's slavery. Since, however, it is free to everyone to suffer detriment in that which is his due, if one of the parties knows the other to be a slave, the marriage is none the less valid. Likewise since in marriage there is an equal obligation on either side to pay the debt, neither party can exact of the other a greater obligation than that under which he lies; so that if a slave marry a bondswoman, thinking her to be free, the marriage is not thereby rendered invalid. It is therefore evident that slavery is no impediment to marriage except when it is unknown to the other party, even though the latter be in a condition of freedom; and so nothing prevents marriage between slaves, or even between a freeman and a bondswoman.

Reply Obj. 2. Nothing prevents a thing being against nature as to the first intention of nature, and yet not against nature as to its second intention. Thus, as stated in *De Cœlo,* ii., all corruption, defect, and old age are contrary to nature, because nature intends being and perfection, and yet they are not contrary to the second intention of nature, because nature, through being unable to preserve being in one thing, preserves it in another which is engendered

of the other's corruption. And when nature is unable to bring a thing to a greater perfection it brings it to a lesser; thus when it cannot produce a male it produces a female which is *a misbegotten male* (*De Gener. Animal.* ii. 3). I say then in like manner that slavery is contrary to the first intention of nature. Yet it is not contrary to the second, because natural reason has this inclination, and nature has this desire,—that everyone should be good; but from the fact that a person sins, nature has an inclination that he should be punished for his sin, and thus slavery was brought in as a punishment of sin. Nor is it unreasonable for a natural thing to be hindered by that which is unnatural in this way; for thus is marriage hindered by impotence of coition, which impotence is contrary to nature in the way mentioned.

Reply Obj. 3. The natural law requires punishment to be inflicted for guilt, and that no one should be punished who is not guilty; but the appointing of the punishment according to the circumstances of person and guilt belongs to positive law. Hence slavery which is a definite punishment is of positive law, and arises out of natural law, as the determinate from that which is indeterminate. And it arises from the determination of the same positive law that slavery if unknown is an impediment to matrimony, lest one who is not guilty be punished; for it is a punishment to the wife to have a slave for husband, and *vice versa*.

Reply Obj. 4. Certain impediments render a marriage unlawful; and since it is not our will that makes a thing lawful or unlawful, but the law to which our will ought to be subject, it follows that the validity or invalidity of a marriage is not affected either by ignorance (such as destroys voluntariness) of the impediment or by knowledge thereof; and such an impediment is affinity or a vow, and others of the same kind. Other impediments, however, render a marriage ineffectual as to the payment of the debt; and since it is within the competency of our will to remit a debt that is due to us, it follows that such impediments, if known, do not invalidate a marriage, but only

when ignorance of them destroys voluntariness. Such impediments are slavery and impotence of coition. And, because they have of themselves the nature of an impediment, they are reckoned as special impediments besides error; whereas a change of person is not reckoned a special impediment besides error, because the substitution of another person has not the nature of an impediment except by reason of the intention of one of the contracting parties.

Reply Obj. 5. Freedom does not hinder the marriage act, wherefore ignorance of freedom is no impediment to matrimony.

Reply Obj. 6. Leprosy does not hinder marriage as to its first act, since lepers can pay the debt freely; although they lay a burden upon marriage as to its secondary effects; wherefore it is not an impediment to marriage as slavery is.

Second Article.

whether a slave can marry without his master's consent?

We proceed thus to the Second Article:—

Objection 1. It would seem that a slave cannot marry without his master's consent. For no one can give a person that which is another's without the latter's consent. Now a slave is his master's chattel. Therefore he cannot give his wife power over his body by marrying without his master's consent.

Obj. 2. Further, A slave is bound to obey his master. But his master may command him not to consent to marry. Therefore he cannot marry without his consent.

Obj. 3. Further, After marriage, a slave is bound even by a precept of the Divine law to pay the debt to his wife. But at the time that his wife asks for the debt his master may demand of him a service which he will be unable to perform if he wish to occupy himself in carnal intercourse. Therefore if a slave can marry without his master's consent, the latter would be deprived of a service due to him without any fault of his; and this ought not to be.

Obj. 4. Further, A master may sell his slave into a foreign country, where the latter's wife is unable to follow him, through either bodily weakness, or imminent danger to her faith; for instance if he be sold to unbelievers, or if her master be unwilling, supposing her to be a bondswoman; and thus the marriage will be dissolved, which is unfitting. Therefore a slave cannot marry without his master's consent.

Obj. 5. Further, The burden under which a man binds himself to the Divine service is more advantageous than that whereby a man subjects himself to his wife. But a slave cannot enter religion or receive orders without his master's consent. Much less therefore can he be married without his consent.

On the contrary, In Christ Jesus . . . there is neither bond nor free (Gal. iii. 26, 28): Therefore both freeman and bondsman enjoy the same liberty to marry in the faith of Christ Jesus.

Further, Slavery is of positive law; whereas marriage is of natural and Divine law. Since then positive law is not prejudicial to the natural or the Divine law, it would seem that a slave can marry without his master's consent.

I answer that, As stated above (A. 1, *ad* 3), the positive law arises out of the natural law, and consequently slavery, which is of positive law, cannot be prejudicious to those things that are of natural law. Now just as nature seeks the preservation of the individual, so does it seek the preservation of the species by means of procreation; wherefore even as a slave is not so subject to his master as not to be at liberty to eat, sleep, and do such things as pertain to the needs of his body, and without which nature cannot be preserved, so he is not subject to him to the extent of being unable to marry freely, even without his master's knowledge or consent.

Reply Obj. 1. A slave is his master's chattel in matters superadded to nature, but in natural things all are equal. Wherefore, in things pertaining to natural acts, a slave can by marrying give another person power over his body without his master's consent.

Reply Obj. 2. A slave is bound to obey his master in those things which his master can command lawfully; and just as his master cannot lawfully command him not to eat or sleep, so neither can he lawfully command him to refrain from marrying. For it is the concern of the lawgiver how each one uses his own, and consequently if the master command his slave not to marry, the slave is not bound to obey his master.

Reply Obj. 3. If a slave has married with his master's consent, he should omit the service commanded by his master and pay the debt to his wife; because the master, by consenting to his slave's marriage, implicitly consented to all that marriage requires. If, however, the marriage was contracted without the master's knowledge or consent, he is not bound to pay the debt, but in preference to obey his master, if the two things are incompatible. Nevertheless in such matters there are many particulars to be considered, as in all human acts, namely the danger to which his wife's chastity is exposed, and the obstacle which the payment of the debt places in the way of the service commanded, and other like considerations, all of which being duly weighed it will be possible to judge which of the two in preference the slave is bound to obey, his master or his wife.

Reply Obj. 4. In such a case it is said that the master should be compelled not to sell the slave in such a way as to increase the weight of the marriage burden, especially since he is able to obtain anywhere a just price for his slave.

Reply Obj. 5. By entering religion or receiving orders a man is bound to the Divine service for all time; whereas a husband is bound to pay the debt to his wife not always, but at a fitting time; hence the comparison fails. Moreover, he who enters religion or receives orders binds himself to works that are superadded to natural works, and in which his master has power over him, but not in natural works to which a man binds himself by marriage. Hence he cannot vow continence without his master's consent.

THIRD ARTICLE.

WHETHER SLAVERY CAN SUPERVENE TO MARRIAGE?

We proceed thus to the Third Article :—

Objection 1. It would seem that slavery cannot supervene to marriage, by the husband selling himself to another as slave. Because what is done by fraud and to another's detriment should not hold. But a husband who sells himself for a slave, does so sometimes to cheat marriage, and at least to the detriment of his wife. Therefore such a sale should not hold as to the effect of slavery.

Obj. 2. Further, Two favourable things outweigh one that is not favourable. Now marriage and freedom are favourable things and are contrary to slavery, which in law is not a favourable thing. Therefore such a slavery ought to be entirely annulled in marriage.

Obj. 3. Further, In marriage husband and wife are on a par with one another. Now the wife cannot surrender herself to be a slave without her husband's consent. Therefore neither can the husband without his wife's consent.

Obj. 4. Further, In natural things that which hinders a thing being generated destroys it after it has been generated. Now bondage of the husband, if unknown to the wife, is an impediment to the act of marriage before it is performed. Therefore if it could supervene to marriage it would dissolve it; which is unreasonable.

On the contrary, Everyone can give another that which is his own. Now the husband is his own master since he is free. Therefore he can surrender his right to another.

Further, A slave can marry without his master's consent, as stated above (A. 2). Therefore a husband can in like manner subject himself to a master, without his wife's consent.

I answer that, A husband is subject to his wife in those things which pertain to the act of nature; in these things they are equal, and the subjection of slavery does not extend thereto. Wherefore the husband, without his wife's knowledge, can surrender himself to be another's slave. Nor

does this result in a dissolution of the marriage, since no impediment supervening to marriage can dissolve it, as stated above (Q. L., A. 1, *ad* 7).

Reply Obj. 1. The fraud can indeed hurt the person who has acted fraudulently, but it cannot be prejudicial to another person: wherefore if the husband, to cheat his wife, surrender himself to be another's slave, it will be to his own prejudice, through his losing the inestimable good of freedom; whereas this can nowise be prejudicial to the wife, and he is bound to pay her the debt when she asks, and to do all that marriage requires of him, for he cannot be taken away from these obligations by his master's command.

Reply Obj. 2. In so far as slavery is opposed to marriage, marriage is prejudicial to slavery, since the slave is bound then to pay the debt to his wife, though his master be unwilling.

Reply Obj. 3. Although husband and wife are considered to be on a par in the marriage act and in things relating to nature, to which the condition of slavery does not extend, nevertheless as regards the management of the household, and other such additional matters the husband is the head of the wife and should correct her, and not *vice versa*. Hence the wife cannot surrender herself to be a slave without her husband's consent.

Reply Obj. 4. This argument considers corruptible things; and yet even in these there are many obstacles to generation that are not capable of destroying what is already generated. But in things which have stability it is possible to have an impediment which prevents a certain thing from beginning to be, yet does not cause it to cease to be; as instanced by the rational soul. It is the same with marriage, which is a lasting tie so long as this life lasts.

Fourth Article.

whether children should follow the condition of their father?

We now proceed to the Fourth Article:—

Objection 1. It would seem that children should follow the condition of their father. Because dominion belongs

to those of higher rank. Now in generating the father ranks above the mother. Therefore, etc.

Obj. 2. Further, The being of a thing depends on the form more than on the matter. Now in generation the father gives the form, and the mother the matter (*De Gener. Animal.* ii. 4). Therefore the child should follow the condition of the father rather than of the mother.

Obj. 3. Further, A thing should follow that chiefly to which it is most like. Now the son is more like the father than the mother, even as the daughter is more like the mother. Therefore at least the son should follow the father in preference, and the daughter the mother.

Obj. 4. Further, In Holy Writ genealogies are not traced through the women but through the men. Therefore the children follow the father rather than the mother.

On the contrary, If a man sows on another's land, the produce belongs to the owner of the land. Now the woman's womb in relation to the seed of the man is like the land in relation to the sower. Therefore, etc.

Further, We observe that in animals born from different species the offspring follows the mother rather than the father; wherefore mules born of a mare and an ass are more like mares than those born of a she-ass and a horse. Therefore it should be the same with men.

I answer that, According to civil law (xix. ff. De statu hom. vii., cap. *De rei vendit.*) the offspring follows the womb: and this is reasonable since the offspring derives its formal complement from the father, but the substance of the body from the mother. Now slavery is a condition of the body, since a slave is to the master a kind of instrument in working: wherefore children follow the mother in freedom and bondage; whereas in matters pertaining to dignity as proceeding from a thing's form, they follow the father, for instance in honours, franchise, inheritance and so forth. The canons are in agreement with this (cap. *Liberi,* 32, qu. iv. in gloss.: cap. *Indecens,* De natis ex libero ventre) as also the law of Moses (Exod. xxi.).

In some countries, however, where the civil law does not

hold, the offspring follows the inferior condition, so that if the father be a slave the children will be slaves although the mother be free; but not if the father gave himself up as a slave after his marriage and without his wife's consent; and the same applies if the case be reversed. And if both be of servile condition and belong to different masters, the children, if several, are divided among the latter, or if one only, the one master will compensate the other in value and will take the child thus born for his slave. However it is incredible that this custom have as much reason in its favour as the decisions of the time-honoured deliberations of many wise men. Moreover in natural things it is the rule that what is received is in the recipient according to the mode of the recipient; wherefore it is reasonable that the seed received by the mother should be drawn to her condition.

Reply Obj. 1. Although the father is a more noble principle than the mother, nevertheless the mother provides the substance of the body, and it is to this that the condition of slavery attaches.

Reply Obj. 2. As regards things pertaining to the specific nature the son is like the father rather than the mother, but in material conditions should be like the mother rather than the father, since a thing has its specific being from its form, but material conditions from matter.

Reply Obj. 3. The son is like the father in respect of the form which is his, and also the father's, complement. Hence the argument is not to the point.

Reply Obj. 4. It is because the son derives honour from his father rather than from his mother that in the genealogies of Scripture, and according to common custom, children are named after their father rather than from their mother. But in matters relating to slavery they follow the mother by preference.

QUESTION LIII.

OF THE IMPEDIMENT OF VOWS AND ORDERS.

(*In Four Articles.*)

We must now consider the impediment of vows and orders. Under this head there are four points of inquiry: (1) Whether a simple vow is a diriment impediment to matrimony? (2) Whether a solemn vow is a diriment impediment? (3) Whether order is an impediment to matrimony? (4) Whether a man can receive a sacred order after being married?

First Article.

WHETHER MARRIAGE ALREADY CONTRACTED SHOULD BE ANNULLED BY THE OBLIGATION OF A SIMPLE VOW?

We proceed thus to the First Article:—

Objection 1. It would seem that a marriage already contracted ought to be annulled by the obligation of a simple vow. For the stronger tie takes precedence of the weaker. Now a vow is a stronger tie than marriage, since the latter binds man to man, but the former binds man to God. Therefore the obligation of a vow takes precedence of the marriage tie.

Obj. 2. Further, God's commandment is no less binding than the commandment of the Church. Now the commandment of the Church is so binding that a marriage is void if contracted in despite thereof; as instanced in the case of those who marry within the degrees of kindred forbidden by the Church. Therefore, since it is a Divine commandment to keep a vow, it would seem that if a person marry

in despite of a vow his marriage should be annulled for that reason.

Obj. 3. Further, In marriage a man may have carnal intercourse without sin. Yet he who has taken a simple vow of chastity can never have carnal intercourse with his wife without sin. Therefore a simple vow annuls marriage. The minor is proved as follows. It is clear that it is a mortal sin to marry after taking a simple vow of continence, since according to Jerome* *for those who vow virginity it is damnable not only to marry, but even to wish to marry.* Now the marriage contract is not contrary to the vow of continence, except by reason of carnal intercourse: and therefore he sins mortally the first time he has intercourse with his wife, and for the same reason every other time, because a sin committed in the first instance cannot be an excuse for a subsequent sin.

Obj. 4. Further, Husband and wife should be equal in marriage, especially as regards carnal intercourse. But he who has taken a simple vow of continence can never ask for the debt without a sin, for this is clearly against his vow of continence, since he is bound to continence by vow. Therefore neither can he pay the debt without sin.

On the contrary, Pope Alexander III. says (cap. *Consuluit,* De his qui cler. vel vovent.) that a *simple vow is an impediment to the contract of marriage, but does not annul it after it is contracted.*

I answer that, A thing ceases to be in one man's power from the fact that it passes into the power of another. Now the promise of a thing does not transfer it into the power of the person to whom it is promised, wherefore a thing does not cease to be in a person's power for the reason that he has promised it. Since then a simple vow contains merely a simple promise of one's body to the effect of keeping continence for God's sake, a man still retains power over his own body after a simple vow, and consequently can surrender it to another, namely his wife; and in this surrender consists the sacrament of matrimony, which is indissoluble. There-

* Cf. S. Augustine, *De Bono Viduit.* ix.

fore although a simple vow is an impediment to the contracting of a marriage, since it is a sin to marry after taking a simple vow of continence, yet since the contract is valid, the marriage cannot be annulled on that account.

Reply Obj. 1. A vow is a stronger tie than matrimony, as regards that to which man is tied, and the obligation under which he lies; because by marriage a man is tied to his wife, with the obligation of paying the debt, whereas by a vow a man is tied to God, with the obligation of remaining continent. But as to the manner in which he is tied marriage is a stronger tie than a simple vow, since by marriage a man surrenders himself actually to the power of his wife, but not by a simple vow as explained above: and the possessor is always in the stronger position. In this respect a simple vow binds in the same way as a betrothal; wherefore a betrothal must be annulled on account of a simple vow.

Reply Obj. 2. The contracting of a marriage between blood-relations is annulled by the commandment forbidding such marriages, not precisely because it is a commandment of God or of the Church, but because it makes it impossible for the body of a kinswoman to be transferred into the power of her kinsman: whereas the commandment forbidding marriage after a simple vow has not this effect, as already stated. Hence the argument is void, for it assigns as a cause that which is not cause.

Reply Obj. 3. If after taking a simple vow a man contract marriage by words of the present, he cannot know his wife without mortal sin, because until the marriage is consummated he is still in a position to fulfil the vow of continence. But after the marriage has been consummated, thenceforth through his fault it is unlawful for him not to pay the debt when his wife asks: wherefore this is not covered by his obligation to his vow, as explained above (*ad* 1). Nevertheless he should atone for not keeping continence, by his tears of repentance.

Reply Obj. 4. After contracting marriage he is still bound to keep his vow of continence in those matters wherein he

is not rendered unable to do so. Hence if his wife die he is bound to continence altogether. And since the marriage tie does not bind him to ask for the debt, he cannot ask for it without sin, although he can pay the debt without sin on being asked, when once he has incurred this obligation through the carnal intercourse that has already occurred. And this holds whether the wife ask expressly or interpretively, as when she is ashamed and her husband feels that she desires him to pay the debt, for then he may pay it without sin. This is especially the case if he fears to endanger her chastity: nor does it matter that they are equal in the marriage act, since everyone may renounce what is his own. Some say, however, that he may both ask and pay lest the marriage become too burdensome to the wife who has always to ask; but if this be looked into aright, it is the same as asking interpretively.

Second Article.

whether a solemn vow dissolves a marriage already contracted?

We proceed thus to the Second Article:—

Objection 1. It would seem that not even a solemn vow dissolves a marriage already contracted. For according to a Decretal (cap. *Rursus*, De his qui cler. vel vovent.) *in God's sight a simple vow is no less binding than a solemn one.* Now marriage stands or falls by virtue of the Divine acceptance. Therefore since a simple vow does not dissolve marriage, neither will a solemn vow dissolve it.

Obj. 2. Further, A solemn vow does not add the same force to a simple vow as an oath does. Now a simple vow, even though an oath be added thereto, does not dissolve a marriage already contracted. Neither therefore does a solemn vow.

Obj. 3. Further, A solemn vow has nothing that a simple vow cannot have. For a simple vow may give rise to scandal since it may be public, even as a solemn vow. Again the Church could and should ordain that a simple

vow dissolves a marriage already contracted, so that many sins may be avoided. Therefore for the same reason that a simple vow does not dissolve a marriage already contracted, neither should a solemn vow dissolve it.

On the contrary, He who takes a solemn vow contracts a spiritual marriage with God, which is much more excellent than a material marriage. Now a material marriage already contracted annuls a marriage contracted afterwards. Therefore a solemn vow does also.

Further, The same conclusion may be proved by many authorities quoted in the text (iv. *Sent.* D. 28).

I answer that, All agree that as a solemn vow is an impediment to the contracting of marriage, so it invalidates the contract. Some assign scandal as the reason. But this is futile, because even a simple vow sometimes leads to scandal since it is at times somewhat public. Moreover the indissolubility of marriage belongs to the truth of life,* which truth is not to be set aside on account of scandal. Wherefore others say that it is on account of the ordinance of the Church. But this again is insufficient, since in that case the Church might decide the contrary, which is seemingly untrue. Wherefore we must say with others that a solemn vow of its very nature dissolves the marriage contract, inasmuch namely as thereby a man has lost the power over his own body, through surrendering it to God for the purpose of perpetual continence. Wherefore he is unable to surrender it to the power of a wife by contracting marriage. And since the marriage that follows such a vow is void, a vow of this kind is said to annul the marriage contracted.

Reply Obj. 1. A simple vow is said to be no less binding in God's sight than a solemn vow, in matters pertaining to God, for instance the separation from God by mortal sin, because he who breaks a simple vow commits a mortal sin just as one who breaks a solemn vow, although it is more grievous to break a solemn vow, so that the comparison be understood as to the genus and not as to the definite degree

* Cf. P. I., Q. XVI., A. 4, *ad* 3; Q. XXI., A. 2, *ad* 2; II.-II., Q. CIX., A. 3, *ad* 3.

of guilt. But as regards marriage, whereby one man is under an obligation to another, there is no need for it to be of equal obligation even in general, since a solemn vow binds to certain things to which a simple vow does not bind.

Reply Obj. 2. An oath is more binding than a vow on the part of the cause of the obligation: but a solemn vow is more binding as to the manner in which it binds, in so far as it is an actual surrender of that which is promised; while an oath does not do this actually. Hence the conclusion does not follow.

Reply Obj. 3. A solemn vow implies the actual surrender of one's body, whereas a simple vow does not, as stated above (A. 1). Hence the argument does not suffice to prove the conclusion.

Third Article.

whether order is an impediment to matrimony?

We proceed thus to the Third Article:—

Objection 1. It would seem that order is not an impediment to matrimony. For nothing is an impediment to a thing except its contrary. But order is not contrary to matrimony. Therefore it is not an impediment thereto.

Obj. 2. Further, Orders are the same with us as with the Eastern Church. But they are not an impediment to matrimony in the Eastern Church. Therefore, etc.

Obj. 3. Further, Matrimony signifies the union of Christ with the Church. Now this is most fittingly signified in those who are Christ's ministers, those namely who are ordained. Therefore order is not an impediment to matrimony.

Obj. 4. Further, All the orders are directed to spiritual things. Now order cannot be an impediment to matrimony except by reason of its spirituality. Therefore if order is an impediment to matrimony, every order will be an impediment, and this is untrue.

Obj. 5. Further, Every ordained person can have ecclesiastical benefices, and can enjoy equally the privilege of clergy. If, therefore, orders are an impediment to marriage, because

married persons cannot have an ecclesiastical benefice, nor enjoy the privilege of clergy, as jurists assert (cap. *Joannes* et seqq. De cler. conjug.), then every order ought to be an impediment. Yet this is false, as shown by the Decretal of Alexander III. (De cler. conjug., cap. *Si Quis*): and consequently it would seem that no order is an impediment to marriage.

On the contrary, the Decretal says (*ibid.*): *any person whom you shall find to have taken a wife after receiving the subdiaconate or the higher orders, you shall compel to put his wife away.* But this would not be so if the marriage were valid.

Further, No person who has vowed continence can contract marriage. Now some orders have a vow of continence connected with them, as appears from the text (iv. *Sent.* D. 37). Therefore in that case order is an impediment to matrimony.

I answer that, By a certain fittingness the very nature of holy order requires that it should be an impediment to marriage: because those who are in holy orders handle the sacred vessels and the sacraments: wherefore it is becoming that they keep their bodies clean by continence.* But it is owing to the Church's ordinance that it is actually an impediment to marriage. However it is not the same with the Latins as with the Greeks; since with the Greeks it is an impediment to the contracting of marriage, solely by virtue of order; whereas with the Latins it is an impediment by virtue of order, and besides by virtue of the vow of continence which is annexed to the sacred orders; for although this vow is not expressed in words, nevertheless a person is understood to have taken it by the very fact of his being ordained. Hence among the Greeks and other Eastern peoples a sacred order is an impediment to the contracting of matrimony but it does not forbid the use of marriage already contracted: for they can use marriage contracted previously, although they cannot be married again. But in the Western Church it is an impediment both to marriage and to the use of marriage, unless perhaps the husband should

* Cf. Isa. lii. 11.

receive a sacred order without the knowledge or consent of his wife, because this cannot be prejudicial to her.

Of the distinction between sacred and non-sacred orders now and in the early Church we have spoken above (Q. XXXVII., A. 3).

Reply Obj. 1. Although a sacred order is not contrary to matrimony as a sacrament, it has a certain incompatibility with marriage in respect of the latter's act which is an obstacle to spiritual acts.

Reply Obj. 2. The objection is based on a false statement: since order is everywhere an impediment to the contracting of marriage, although it has not everywhere a vow annexed to it.

Reply Obj. 3. Those who are in sacred orders signify Christ by more sublime actions, as appears from what has been said in the treatise on orders (Q. XXXVII., AA. 2, 4), than those who are married. Consequently the conclusion does not follow.

Reply Obj. 4. Those who are in minor orders are not forbidden to marry by virtue of their order; for although those orders are entrusted with certain spiritualities, they are not admitted to the immediate handling of sacred things, as those are who are in sacred orders. But according to the laws of the Western Church, the use of marriage is an impediment to the exercise of a non-sacred order, for the sake of maintaining a greater honesty in the offices of the Church. And since the holding of an ecclesiastical benefice binds a man to the exercise of his order, and since for this very reason he enjoys the privilege of clergy, it follows that in the Latin Church this privilege is forfeit to a married cleric.

This suffices for the *Reply* to the *last Objection*.

FOURTH ARTICLE.

WHETHER A SACRED ORDER CAN SUPERVENE TO MATRIMONY?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that a sacred order cannot supervene to matrimony. For the stronger prejudices the weaker. Now a spiritual obligation is stronger than a bodily tie. Therefore if a married man be ordained, this will prejudice the wife, so that she will be unable to demand the debt, since order is a spiritual, and marriage a bodily bond. Hence it would seem that a man cannot receive a sacred order after consummating marriage.

Obj. 2. Further, After consummating the marriage, one of the parties cannot vow continence without the other's consent.* Now a sacred order has a vow of continence annexed to it. Therefore if the husband be ordained without his wife's consent, she will be bound to remain continent against her will, since she cannot marry another man during her husband's lifetime.

Obj. 3. Further, A husband may not even for a time devote himself to prayer without his wife's consent (1 Cor. vii. 5). But in the Eastern Church those who are in sacred orders are bound to continence for the time when they exercise their office. Therefore neither may they be ordained without their wife's consent, and much less may the Latins.

Obj. 4. Further, Husband and wife are on a par with one another. Now a Greek priest cannot marry again after his wife's death. Therefore neither can his wife after her husband's death. But she cannot be deprived by her husband's act of the right to marry after his death. Therefore her husband cannot receive orders after marriage.

Obj. 5. Further, Order is as much opposed to marriage as marriage to order. Now a previous order is an impediment to a subsequent marriage. Therefore, etc.

On the contrary, Religious are bound to continence like those who are in sacred orders. But a man may enter

* Cf. Q. LXI., A. 1.

religion after marriage, if his wife die, or if she consent. Therefore he can also receive orders.

Further, A man may become a man's bondsman after marriage. Therefore he can become a bondsman of God by receiving orders.

I answer that, Marriage is not an impediment to the receiving of sacred orders, since if a married man receive sacred orders, even though his wife be unwilling, he receives the character of order: but he lacks the exercise of his order. If, however, his wife consent, or if she be dead, he receives both the order and the exercise.

Reply Obj. 1. The bond of orders dissolves the bond of marriage as regards the payment of the debt, in respect of which it is incompatible with marriage, on the part of the person ordained, since he cannot demand the debt, nor is the wife bound to pay it. But it does not dissolve the bond in respect of the other party, since the husband is bound to pay the debt to the wife if he cannot persuade her to observe continence.

Reply Obj. 2. If the husband receive sacred orders with the knowledge and consent of his wife, she is bound to vow perpetual continence, but she is not bound to enter religion, if she has no fear of her chastity being endangered through her husband having taken a solemn vow: it would have been different, however, if he had taken a simple vow. On the other hand, if he be ordained without her consent, she is not bound in this way, because the result is not prejudicial to her in any way.

Reply Obj. 3. It would seem more probable, although some say the contrary, that even a Greek ought not to receive sacred orders without his wife's consent, since at least at the time of his ministry she would be deprived of the payment of the debt, of which she cannot be deprived according to law if the husband should have been ordained without her consent or knowledge.

Reply Obj. 4. As stated, among the Greeks, the wife by the very fact of consenting to her husband's receiving a sacred order, binds herself never to marry another man,

because the signification of marriage would not be safeguarded, and this is especially required in the marriage of a priest. If, however, he be ordained without her consent, seemingly she would not be under that obligation.

Reply Obj. 5. Marriage has for its cause our consent: not so Order, which has a sacramental cause appointed by God. Hence matrimony may be impeded by a previous order, so as not to be true marriage: whereas order cannot be impeded by marriage, so as not to be true order, because the power of the sacraments is unchangeable, whereas human acts can be impeded.

QUESTION LIV.

OF THE IMPEDIMENT OF CONSANGUINITY.

(*In Four Articles.*)

WE must next consider the impediment of consanguinity. Under this head there are four points of inquiry: (1) Whether consanguinity is rightly defined by some? (2) Whether it is fittingly distinguished by degrees and lines? (3) Whether certain degrees are by natural law an impediment to marriage? (4) Whether the impedient degrees can be fixed by the ordinance of the Church?

FIRST ARTICLE.

WHETHER CONSANGUINITY IS RIGHTLY DEFINED?

We proceed thus to the First Article:—

Objection 1. It would seem that consanguinity is unsuitably defined by some as follows: *Consanguinity is the tie contracted between persons descending from the same common ancestor by carnal procreation.* For all men descend from the same common ancestor, namely Adam, by carnal procreation. Therefore if the above definition of consanguinity is right, all men would be related by consanguinity: which is false.

Obj. 2. Further, A tie is only between things in accord with one another, since a tie unites. Now there is no greater accordance between persons descended from a common ancestor than there is between other men, since they accord in species but differ in number, just as other men do. Therefore consanguinity is not a tie.

Obj. 3. Further, Carnal procreation, according to the Philosopher (*De Gener. Anim.* ii. 19), is effected from the surplus food.* Now this surplus has more in common with that which is ate, since it agrees with it in substance, than with him who eats. Since then no tie of consanguinity arises between the person born of seed and that which he eats, neither will there be any tie of kindred between him and the person of whom he is born by carnal procreation.

Obj. 4. Further, Laban said to Jacob (Gen. xxix. 14): *Thou art my bone and my flesh,* on account of the relationship between them. Therefore such a kinship should be called flesh-relationship rather than blood-relationship (*consanguinitas*).

Obj. 5. Further, Carnal procreation is common to men and animals. But no tie of consanguinity is contracted among animals from carnal procreation. Therefore neither is there among men.

I answer that, According to the Philosopher (*Ethic.* iii. 11, 12) *all friendship is based on some kind of fellowship.* And since friendship is a knot or union, it follows that the fellowship which is the cause of friendship is called *a tie.* Wherefore in respect of any kind of a fellowship certain persons are denominated as though they were tied together: thus we speak of fellow-citizens who are connected by a common political life, of fellow-soldiers who are connected by the common business of soldiering, and in the same way those who are connected by the fellowship of nature are said to be tied by blood (*consanguinei*). Hence in the above definition *tie* is included as being the genus of consanguinity; the *persons descending from the same common ancestor,* who are thus tied together are the subject of this tie; while *carnal procreation* is mentioned as being its origin.

Reply Obj. 1. An active force is not received into an instrument in the same degree of perfection as it has in the principal agent. And since every moved mover is an instrument, it follows that the power of the first mover in a

* Cf. P. I., Q. CXIX., A. 2.

particular genus when drawn out through many mediate movers fails at length, and reaches something that is moved and not a mover. But the power of a begetter moves not only as to that which belongs to the species, but also as to that which belongs to the individual, by reason of which the child is like the parent even in accidentals and not only in the specific nature. And yet this individual power of the father is not so perfect in the son as it was in the father, and still less so in the grandson, and thus it goes on failing: so that at length it ceases and can go no further. Since then consanguinity results from this power being communicated to many through being conveyed to them from one person by procreation, it destroys itself by little and little as Isidore says (*Etym.* ix.). Consequently in defining consanguinity we must not take a remote common ancestor but the nearest, whose power still remains in those who are descended from him.

Reply Obj. 2. It is clear from what has been said that blood relations agree not only in the specific nature but also in that power peculiar to the individual which is conveyed from one to many: the result being that sometimes the child is not only like his father, but also his grandfather or his remote ancestors (*De Gener. Anim.* iv. 3).

Reply Obj. 3. Likeness depends more on form whereby a thing is actually, than on matter whereby a thing is potentially: for instance charcoal has more in common with fire than with the tree from which the wood was cut. In like manner food already transformed by the nutritive power into the substance of the person fed has more in common with the subject nourished than with that from which the nourishment was taken. The argument however would hold according to the opinion of those who asserted that the whole nature of a thing is from its matter and that all forms are accidents: which is false.

Reply Obj. 4. It is the blood that is proximately changed into the semen, as proved in *De Gener. Anim.* i. 18. Hence the tie contracted by carnal procreation is more fittingly called blood-relationship than flesh-relationship. That

sometimes one relation is called the flesh of another, is because the blood which is transformed into the man's seed or into the menstrual fluid is potentially flesh and bone.

Reply Obj. 5. Some say that the reason why the tie of consanguinity is contracted among men through carnal procreation, and not among other animals, is because whatever belongs to the truth of human nature in all men was in our first parent: which does not apply to other animals. But according to this matrimonial consanguinity would never come to an end. However the above theory was disproved in the Second Book (ii. *Sent.* D. 30: P. I., Q. CXIX., A. 1). Wherefore we must reply that the reason for this is that animals are not united together in the union of friendship through the begetting of many from one proximate parent, as is the case with men, as stated above.

SECOND ARTICLE.

WHETHER CONSANGUINITY IS FITTINGLY DISTINGUISHED BY DEGREES AND LINES?

We proceed thus to the Second Article:—

Objection 1. It would seem that consanguinity is unfittingly distinguished by degrees and lines. For a line of consanguinity is described as *the ordered series of persons related by blood, and descending from a common ancestor in various degrees.* Now consanguinity is nothing else but a series of such persons. Therefore a line of consanguinity is the same as consanguinity. Now a thing ought not to be divided by itself. Therefore consanguinity is not fittingly divided into lines.

Obj. 2. Further, That by which a common thing is divided should not be placed in the definition of that common thing. Now descent is placed in the above definition of consanguinity. Therefore consanguinity cannot be divided into ascending, descending and collateral lines.

Obj. 3. Further, A line is defined as being between two points. But two points make but one degree. Therefore one line has but one degree, and for this reason it would

seem that consanguinity should not be divided into lines and degrees.

Obj. 4. Further, A degree is defined as *the relation between distant persons, whereby is known the distance between them.* Now since consanguinity is a kind of propinquity, distance between persons is opposed to consanguinity rather than a part thereof.

Obj. 5. Further, If consanguinity is divided and known by its degrees, those who are in the same degree ought to be equally related. But this is false since a man's great-uncle and great-nephew are in the same degree, and yet they are not equally related according to a Decretal (cap. *Porro* and cap. *Parentelæ*, 35, qu. v.). Therefore consanguinity is not rightly divided into degrees.

Obj. 6. Further, In ordinary things a different degree results from the addition of one thing to another, even as every additional unity makes a different species of number. Yet the addition of one person to another does not always make a different degree of consanguinity, since father and uncle are in the same degree of consanguinity, for they are side by side. Therefore consanguinity is not rightly divided into degrees.

Obj. 7. Further, If two persons be akin to one another there is always the same measure of kinship between them, since the distance from one extreme to the other is the same either way. Yet the degrees of consanguinity are not always the same on either side, since sometimes one relative is in the third and the other in the fourth degree. Therefore the measure of consanguinity cannot be sufficiently known by its degrees.

I answer that, Consanguinity as stated (A. 1) is a certain propinquity based on the natural communication by the act of procreation whereby nature is propagated. Wherefore according to the Philosopher (*Ethic.* viii. 12) this communication is threefold. One corresponds to the relationship between cause and effect, and this is the consanguinity of father to son, wherefore he says that *parents love their children as being a part of themselves.* Another corresponds

to the relation of effect to cause, and this is the consanguinity of son to father, wherefore he says that *children love their parents as being themselves something which owes its existence to them.* The third corresponds to the mutual relation between things that come from the same cause, as brothers, *who are born of the same parents,* as he again says (*ibid.*). And since the movement of a point makes a line, and since a father by procreation may be said to descend to his son, hence it is that corresponding to these three relationships there are three lines of consanguinity, namely the *descending* line corresponding to the first relationship, the *ascending* line corresponding to the second, and the *collateral* line corresponding to the third. Since however the movement of propagation does not rest in one term but continues beyond, the result is that one can point to the father's father and to the son's son, and so on, and according to the various steps we take we find various degrees in one line. And seeing that the degrees of a thing are parts of that thing, there cannot be degrees of propinquity where there is no propinquity. Consequently identity and too great a distance do away with degrees of consanguinity; since no man is kin to himself any more than he is like himself: for which reason there is no degree of consanguinity where there is but one person, but only when one person is compared to another.

Nevertheless there are different ways of counting the degrees in various lines. For the degree of consanguinity in the ascending and descending line is contracted from the fact that one of the parties whose consanguinity is in question, is descended from the other. Wherefore according to the canonical as well as the legal reckoning, the person who occupies the first place, whether in the ascending or in the descending line, is distant from a certain one, say Peter, in the first degree,—for instance father and son; while the one who occupies the second place in either direction is distant in the second degree, for instance grandfather, grandson and so on. But the consanguinity that exists between persons who are in collateral lines is contracted not through one

being descended from the other, but through both being descended from one: wherefore the degrees of consanguinity in this line must be reckoned in relation to the one principle whence it arises. Here, however, the canonical and legal reckonings differ: for the legal reckoning takes into account the descent from the common stock on both sides, whereas the canonical reckoning takes into account only one, that namely on which the greater number of degrees are found. Hence according to the legal reckoning brother and sister, or two brothers, are related in the second degree, because each is separated from the common stock by one degree; and in like manner the children of two brothers are distant from one another in the fourth degree. But according to the canonical reckoning, two brothers are related in the first degree, since neither is distant more than one degree from the common stock: but the children of one brother are distant in the second degree from the other brother, because they are at that distance from the common stock. Hence, according to the canonical reckoning, by whatever degree a person is distant from some higher degree, by so much and never by less is he distant from each person descending from that degree, because *the cause of a thing being so is yet more so.* Wherefore although the other descendants from the common stock be related to some person on account of his being descended from the common stock, these descendants of the other branch cannot be more nearly related to him than he is to the common stock. Sometimes, however, a person is more distantly related to a descendant from the common stock, than he himself is to the common stock, because this other person may be more distantly related to the common stock than he is: and consanguinity must be reckoned according to the more distant degree.

Reply Obj. 1. This objection is based on a false premise: for consanguinity is not the series but a mutual relationship existing between certain persons, the series of whom forms a line of consanguinity.

Reply Obj. 2. Descent taken in a general sense attaches

to every line of consanguinity, because carnal procreation whence the tie of consanguinity arises is a kind of descent: but it is a particular kind of descent, namely from the person whose consanguinity is in question, that makes the descending line.

Reply Obj. 3. A line may be taken in two ways. Sometimes it is taken properly for the dimension itself that is the first species of continuous quantity: and thus a straight line contains actually but two points which terminate it, but infinite points potentially, any one of which being actually designated, the line is divided, and becomes two lines. But sometimes a line designates things which are arranged in a line, and thus we have line and figure in numbers, in so far as unity added to unity involves number. Thus every unity added makes a degree in a particular line: and it is the same with the line of consanguinity: wherefore one line contains several degrees.

Reply Obj. 4. Even as there cannot be likeness without a difference, so there is no propinquity without distance. Hence not every distance is opposed to consanguinity, but such as excludes the propinquity of blood-relationship.

Reply Obj. 5. Even as whiteness is said to be greater in two ways, in one way through intensity of the quality itself, in another way through the quantity of the surface, so consanguinity is said to be greater or lesser in two ways. First, intensively by reason of the very nature of consanguinity: secondly, extensively as it were, and thus the degree of consanguinity is measured by the persons between whom there is the propagation of a common blood, and in this way the degrees of consanguinity are distinguished. Wherefore it happens that of two persons related to one person in the same degree of consanguinity, one is more akin to him than the other, if we consider the quantity of consanguinity in the first way: thus a man's father and brother are related to him in the first degree of consanguinity, because in neither case does any person come in between; and yet from the point of view of intensity a man's father is more closely related to him than his brother, since his brother is related to him

only because he is of the same father. Hence the nearer a person is to the common ancestor from whom the consanguinity descends, the greater is his consanguinity although he be not in a nearer degree. In this way a man's great-uncle is more closely related to him than his great-nephew, although they are in the same degree.

Reply Obj. 6. Although a man's father and uncle are in the same degree in respect of the root of consanguinity, since both are separated by one degree from the grandfather, nevertheless in respect of the person whose consanguinity is in question, they are not in the same degree, since the father is in the first degree, whereas the uncle cannot be nearer than the second degree, wherein the grandfather stands.

Reply Obj. 7. Two persons are always related in the same degree to one another, although they are not always distant in the same number of degrees from the common ancestor, as explained above.

Third Article.

whether consanguinity is an impediment to marriage by virtue of the natural law?

We proceed thus to the Third Article:—

Objection 1. It would seem that consanguinity is not by natural law an impediment to marriage. For no woman can be more akin to a man than Eve was to Adam, since of her did he say (Gen. ii. 23): *This now is bone of my bones and flesh of my flesh.* Yet Eve was joined in marriage to Adam. Therefore as regards the natural law no consanguinity is an impediment to marriage.

Obj. 2. Further, The natural law is the same for all. Now among the uncivilized nations no person is debarred from marriage by reason of consanguinity. Therefore, as regards the law of nature, consanguinity is no impediment to marriage.

Obj. 3. Further, The natural law is what *nature has taught all animals,* as stated at the beginning of the *Digests* (i. ff. *De just. et jure*). Now brute animals copulate even

with their mother. Therefore it is not of natural law that certain persons are debarred from marriage on account of consanguinity.

Obj. 4. Further, Nothing that is not contrary to one of the goods of matrimony is an impediment to marriage. But consanguinity is not contrary to any of the goods of marriage. Therefore it is not an impediment thereto.

Obj. 5. Further, Things which are more akin and more similar to one another are better and more firmly united together. Now matrimony is a kind of union. Since then consanguinity is a kind of kinship, it does not hinder marriage but rather strengthens the union.

On the contrary, According to the natural law whatever is an obstacle to the good of the offspring is an impediment to marriage. Now consanguinity hinders the good of the offspring, because in the words of Gregory (*Regist., ep.* xxxi.) quoted in the text (iv. *Sent.* D. 40) *We have learnt by experience that the children of such a union cannot thrive.* Therefore according to the law of nature consanguinity is an impediment to matrimony.

Further, That which belongs to human nature when it was first created is of natural law. Now it belonged to human nature from when it was first created that one should be debarred from marrying one's father or mother: in proof of which it was said (Gen. ii. 24): *Wherefore a man shall leave father and mother:* which cannot be understood of cohabitation, and consequently must refer to the union of marriage. Therefore consanguinity is an impediment to marriage according to the natural law.

I answer that, In relation to marriage a thing is said to be contrary to the natural law if it prevents marriage from reaching the end for which it was instituted. Now the essential and primary end of marriage is the good of the offspring; and this is hindered by a certain consanguinity, namely that which is between father and daughter, or son and mother. It is not that the good of the offspring is utterly destroyed, since a daughter can have a child of her father's seed and with the father rear and teach that child

in which things the good of the offspring consists, but that it is not effected in a becoming way. For it is out of order that a daughter be mated to her father in marriage for the purpose of begetting and rearing children, since in all things she ought to be subject to her father as proceeding from him. Hence by natural law a father and mother are debarred from marrying their children; and the mother still more than the father, since it is more derogatory to the reverence due to parents if the son marry his mother than if the father marry his daughter; since the wife should be to a certain extent subject to her husband. The secondary essential end of marriage is the curbing of concupiscence; and this end would be forfeit if a man could marry any blood-relation, since a wide scope would be afforded to concupiscence if those who have to live together in the same house were not forbidden to be mated in the flesh. Wherefore the Divine law debars from marriage not only father and mother, but also other kinsfolk who have to live in close intimacy with one another and ought to safeguard one another's modesty. The Divine law assigns this reason (Levit. xviii. 10): *Thou shalt not uncover the nakedness* of such and such a one, *because it is thy own nakedness.*

But the accidental end of marriage is the binding together of mankind and the extension of friendship: for a husband regards his wife's kindred as his own. Hence it would be prejudicial to this extension of friendship if a man could take a woman of his kindred to wife since no new friendship would accrue to anyone from such a marriage. Wherefore, according to human law and the ordinances of the Church, several degrees of consanguinity are debarred from marriage.

Accordingly it is clear from what has been said that consanguinity is by natural law an impediment to marriage in regard to certain persons, by Divine law in respect of some, and by human law in respect of others.

Reply Obj. 1. Although Eve was formed from Adam she was not Adam's daughter, because she was not formed from him after the manner in which it is natural for a man to

beget his like in species, but by the Divine operation, since from Adam's rib a horse might have been formed in the same way as Eve was. Hence the natural connection between Eve and Adam was not so great as between daughter and father, nor was Adam the natural principle of Eve as a father is of his daughter.

Reply Obj. 2. That certain barbarians are united carnally to their parents does not come from the natural law but from the passion of concupiscence which has clouded the natural law in them.

Reply Obj. 3. Union of male and female is said to be of natural law, because nature has taught this to animals: yet she has taught this union to various animals in various ways according to their various conditions. But carnal copulation with parents is derogatory to the reverence due to them. For just as nature has instilled into parents solicitude in providing for their offspring, so has it instilled into the offspring reverence towards their parents: yet to no kind of animal save man has she instilled a lasting solicitude for his children or reverence for parents; but to other animals more or less, according as the offspring is more or less necessary to its parents, or the parents to their offspring. Hence as the Philosopher attests (*De animal.* ix. 47) concerning the camel and the horse, among certain animals the son abhors copulation with its mother as long as he retains knowledge of her and a certain reverence for her. And since all honest customs of animals are united together in man naturally, and more perfectly than in other animals, it follows that man naturally abhors carnal knowledge not only of his mother, but also his daughter, which is, however, less against nature, as stated above.

Moreover consanguinity does not result from carnal procreation in other animals as in man, as stated above (A. 1, *ad.* 5). Hence the comparison fails.

Reply Obj. 4. It has been shown how consanguinity between married persons is contrary to the goods of marriage. Hence the *Objection* proceeds from false premisses.

Reply Obj. 5. It is not unreasonable for one of two unions

to be hindered by the other, even as where there is identity there is not likeness. In like manner the tie of consanguinity may hinder the union of marriage.

DOMINICAN COLLEGE SAN RAFAEL MARIN COUNTY CALIF.

Fourth Article.

WHETHER THE DEGREES OF CONSANGUINITY THAT ARE AN IMPEDIMENT TO MARRIAGE COULD BE FIXED BY THE CHURCH?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that the degrees of consanguinity that are an impediment to marriage could not be fixed by the Church so as to reach to the fourth degree. For it is written (Matth. xix. 6): *What God hath joined together let no man put asunder.* But God joined those together who are married within the fourth degree of consanguinity, since their union is not forbidden by the Divine law. Therefore they should not be put asunder by a human law.

Obj. 2. Further, Matrimony is a sacrament as also is baptism. Now no ordinance of the Church could prevent one who is baptized from receiving the baptismal character, if he be capable of receiving it according to the Divine law. Therefore neither can an ordinance of the Church forbid marriage between those who are not forbidden to marry by the Divine law.

Obj. 3. Further, Positive law can neither void nor extend those things which are natural. Now consanguinity is a natural tie which is in itself of a nature to impede marriage. Therefore the Church cannot by its ordinance permit or forbid certain people to marry, any more than she can make them to be kin or not kin.

Obj. 4. Further, An ordinance of positive law should have some reasonable cause, since it is for this reasonable cause that it proceeds from the natural law. But the causes that are assigned for the number of degrees seem altogether unreasonable, since they bear no relation to their effect; for instance, that consanguinity be an impediment as far as the fourth degree on account of the four elements, as far as the sixth degree on account of the six ages of the world, as far

as the seventh degree on account of the seven days of which all time is comprised. Therefore seemingly this prohibition is of no force.

Obj. 5. Further, Where the cause is the same there should be the same effect. Now the causes for which consanguinity is an impediment to marriage are the good of the offspring, the curbing of concupiscence, and the extension of friendship, as stated above (A. 3), which are equally necessary for all time. Therefore the degrees of consanguinity should have equally impeded marriage at all times: yet this is not true since consanguinity is now an impediment to marriage as far as the fourth degree, whereas formerly it was an impediment as far as the seventh.

Obj. 6. Further, One and the same union cannot be a kind of sacrament and a kind of incest. But this would be the case if the Church had the power of fixing a different number in the degrees which are an impediment to marriage. Thus if certain parties related in the fifth degree were married when that degree was an impediment, their union would be incestuous, and yet this same union would be a marriage afterwards when the Church withdrew her prohibition. And the reverse might happen if certain degrees which were not an impediment were subsequently to be forbidden by the Church. Therefore seemingly the power of the Church does not extend to this.

Obj. 7. Further, Human law should copy the Divine law. Now according to the Divine law which is contained in the Old Law, the prohibition of degrees does not apply equally in the ascending and descending lines: since in the Old Law a man was forbidden to marry his father's sister but not his brother's daughter. Therefore neither should there remain now a prohibition in respect of nephews and uncles.

On the contrary, Our Lord said to His disciples (Luke x. 16): *He that heareth you heareth Me.* Therefore a commandment of the Church has the same force as a commandment of God. Now the Church sometimes has forbidden and sometimes allowed certain degrees which the old law did not forbid. Therefore those degrees are an impediment to marriage.

Further, Even as of old the marriages of pagans were controlled by the civil law, so now is marriage controlled by the laws of the Church. Now formerly the civil law decided which degrees of consanguinity impede marriage, and which do not. Therefore this can be done now by a commandment of the Church.

I answer that, The degrees within which consanguinity has been an impediment to marriage have varied according to various times. For at the beginning of the human race father and mother alone were debarred from marrying their children, because then mankind were few in number, and then it was necessary for the propagation of the human race to be ensured with very great care, and consequently only such persons were to be debarred as were unfitted for marriage even in respect of its principal end which is the good of the offspring, as stated above (A. 3). Afterwards however, the human race having multiplied, more persons were excluded by the law of Moses, for they already began to curb concupiscence. Wherefore as Rabbi Moses says (*Dux errant.* iii.) all those persons were debarred from marrying one another who are wont to live together in one household, because if a lawful carnal intercourse were possible between them, this would prove a very great incentive to lust. Yet the Old Law permitted other degrees of consanguinity, in fact to a certain extent it commanded them, to wit that each man should take a wife from his kindred, in order to avoid confusion of inheritances: because at that time the Divine worship was handed down as the inheritance of the race. But afterwards more degrees were forbidden by the New Law which is the law of the spirit and of love, because the worship of God is no longer handed down and spread abroad by a carnal birth but by a spiritual grace: wherefore it was necessary that men should be yet more withdrawn from carnal things by devoting themselves to things spiritual, and that love should have a yet wider play. Hence in olden times marriage was forbidden even within the more remote degrees of consanguinity, in order that consanguinity and affinity might be the sources of a

wider natural friendship; and this was reasonably extended to the seventh degree, both because beyond this it was difficult to have any recollection of the common stock, and because this was in keeping with the sevenfold grace of the Holy Ghost. Afterwards, however, towards these latter times the prohibition of the Church has been restricted to the fourth degree, because it became useless and dangerous to extend the prohibition to more remote degrees of consanguinity. Useless, because charity waxed cold in many hearts so that they had scarcely a greater bond of friendship with their more remote kindred than with strangers: and it was dangerous because through the prevalence of concupiscence and neglect men took no account of so numerous a kindred, and thus the prohibition of the more remote degrees became for many a snare leading to damnation. Moreover there is a certain fittingness in the restriction of the above prohibition to the fourth degree. First because men are wont to live until the fourth generation, so that consanguinity cannot lapse into oblivion, wherefore God threatened (Exod. xx. 5) to visit the parents' sins on their children to the third and fourth generation. Secondly, because in each generation the blood, the identity of which causes consanguinity, receives a further addition of new blood, and the more another blood is added the less there is of the old. And because there are four elements, each of which is the more easily mixed with another, according as it is more rarefied, it follows that at the first admixture the identity of blood disappears as regards the first element which is most subtle; at the second admixture, as regards the second element; at the third, as to the third element; at the fourth, as to the fourth element. Thus after the fourth generation it is fitting for the carnal union to be repeated.

Reply Obj. 1. Even as God does not join together those who are joined together against the Divine command, so does He not join together those who are joined together against the commandment of the Church, which has the same binding force as a commandment of God.

Reply Obj. 2. Matrimony is not only a sacrament but also

fulfils an office; wherefore it is more subject to the control of the Church's ministers than baptism which is a sacrament only: because just as human contracts and offices are controlled by human laws, so are spiritual contracts and offices controlled by the law of the Church.

Reply Obj. 3. Although the tie of consanguinity is natural, it is not natural that consanguinity forbid carnal intercourse, except as regards certain degrees, as stated above (A. 3). Wherefore the Church's commandment does not cause certain people to be kin or not kin, because they remain equally kin at all times: but it makes carnal intercourse to be lawful or unlawful at different times for different degrees of consanguinity.

Reply Obj. 4. The reasons assigned are given as indicating aptness and congruousness rather than causality and necessity.

Reply Obj. 5. The reason for the impediment of consanguinity is not the same at different times: wherefore that which it was useful to allow at one time, it was beneficial to forbid at another.

Reply Obj. 6. A commandment does not affect the past but the future. Wherefore if the fifth degree which is now allowed were to be forbidden at any time, those in the fifth degree who are married would not have to separate, because no impediment supervening to marriage can annul it; and consequently a union which was a marriage from the first would not be made incestuous by a commandment of the Church. In like manner if a degree which is now forbidden were to be allowed, such a union would not become a marriage on account of the Church's commandment by reason of the former contract, because they could separate if they wished. Nevertheless, they could contract anew, and this would be a new union.

Reply Obj. 7. In prohibiting the degrees of consanguinity the Church considers chiefly the point of view of affection. And since the reason for affection towards one's brother's son is not less but even greater than the reasons for affection towards one's father's brother, inasmuch as the son is more

akin to the father than the father to the son (*Ethic.* viii. 12), therefore did the Church equally prohibit the degrees of consanguinity in uncles and nephews. On the other hand the old law in debarring certain persons looked chiefly to the danger of concupiscence arising from cohabitation; and debarred those persons who were in closer intimacy with one another on account of their living together. Now it is more usual for a niece to live with her uncle than an aunt with her nephew: because a daughter is more identified with her father, being part of him, whereas a sister is not in this way identified with her brother, for she is not part of him but is born of the same parent. Hence there was not the same reason for debarring a niece and an aunt.

QUESTION LV.

OF THE IMPEDIMENT OF AFFINITY.

(*In Eleven Articles.*)

We must consider next the impediment of affinity. Under this head there are eleven points of inquiry: (1) Whether affinity results from matrimony? (2) Whether it remains after the death of husband or wife? (3) Whether it is caused through unlawful intercourse? (4) Whether it arises from a betrothal? (5) Whether affinity is caused through affinity? (6) Whether affinity is an impediment to marriage? (7) Whether affinity in itself admits of degrees? (8) Whether its degrees extend as far as the degrees of consanguinity? (9) Whether marriages of persons related to one another by consanguinity or affinity should always be dissolved by divorce? (10) Whether the process for the dissolution of like marriages should always be by way of accusation? (11) Whether witnesses should be called in such a case?

First Article.

WHETHER A PERSON CONTRACTS AFFINITY THROUGH THE MARRIAGE OF A BLOOD-RELATION?

We proceed thus to the First Article:—

Objection 1. It would seem that a person does not contract affinity through the marriage of a blood-relation. For *the cause of a thing being so is yet more so.* Now the wife is not connected with her husband's kindred except by reason of the husband. Since then she does contract affinity with

her husband, neither does she contract it with her husband's kindred.

Obj. 2. Further, If certain things be separate from one another and something be connected with one of them, it does not follow that it is connected with the other. Now a person's blood relations are separate from one another. Therefore it does not follow, if a certain woman be married to a certain man, that she is therefore connected with all his kindred.

Obj. 3. Further, Relations result from certain things being united together. Now the kindred of the husband do not become united together by the fact of his taking a wife. Therefore they do not acquire any relationship of affinity.

On the contrary, Husband and wife are made one flesh. Therefore if the husband is related in the flesh to all his kindred, for the same reason his wife will be related to them all.

Further, This is proved by the authorities quoted in the text (iv. *Sent.* D. 41.).

I answer that, A certain natural friendship is founded on natural fellowship. Now natural fellowship, according to the Philosopher (*Ethic.* viii. 12), arises in two ways; first, from carnal procreation; secondly from connection with orderly carnal procreation, wherefore he says (*ibid.*) that the friendship of a husband towards his wife is natural. Consequently even as a person through being connected with another by carnal procreation is bound to him by a tie of natural friendship, so does one person become connected with another through carnal intercourse. But there is a difference in this, that one who is connected with another through carnal procreation, as a son with his father, shares in the same common stock and blood, so that a son is connected with his father's kindred by the same kind of tie as the father was, the tie, namely of consanguinity, albeit in a different degree on account of his being more distant from the stock: whereas one who is connected with another through carnal intercourse does not share in the same stock, but is as it were an

extraneous addition thereto: whence arises another kind of tie known by the name of *affinity*. This is expressed in the verse:

> Marriage makes a new kind of connection,
> While birth makes a new degree,

because, to wit, the person begotten is in the same kind of relationship, but in a different degree, whereas through carnal intercourse he enters into a new kind of relationship.

Reply Obj. 1. Although a cause is more potent than its effect, it does not always follow that the same name is applicable to the cause as to the effect, because sometimes that which is in the effect, is found in the cause not in the same but in a higher way; wherefore it is not applicable to both cause and effect under the same name or under the same aspect, as is the case with all equivocal effective causes. Thus, then, the union of husband and wife is stronger than the union of the wife with her husband's kindred, and yet it ought not to be named affinity, but matrimony which is a kind of unity; even as a man is identical with himself, but not with his kinsman.

Reply Obj. 2. Blood-relations are in a way separate, and in a way connected: and it happens in respect of their connection that a person who is connected with one of them is in some way connected with all of them. But on account of their separation and distance from one another it happens that a person who is connected with one of them in one way is connected with another in another way, either as to the kind of connection or as to the degree.

Reply Obj. 3. Further, A relation results sometimes from a movement in each extreme, for instance fatherhood and sonship, and a relation of this kind is really in both extremes. Sometimes it results from the movement of one only, and this happens in two ways. In one way when a relation results from the movement of one extreme without any movement previous or concomitant of the other extreme; as in the Creator and the creature, the sensible and the sense, knowledge and the knowable object: and then the relation is in one extreme really and in the other logically only. In

another way when the relation results from the movement of one extreme without any concomitant movement, but not without a previous movement of the other; thus there results equality between two men by the increase of one, without the other either increasing or decreasing then, although previously he reached his actual quantity by some movement or change, so that this relation is founded really in both extremes. It is the same with consanguinity and affinity, because the relation of brotherhood which results in a grown child on the birth of a boy, is caused without any movement of the former's at the time, but by virtue of that previous movement of his wherein he was begotten; wherefore at the time it happens that there results in him the aforesaid relation through the movement of another. Likewise because this man descends through his own birth from the same stock as the husband, there results in him affinity with the latter's wife, without any new change in him.

SECOND ARTICLE.

WHETHER AFFINITY REMAINS AFTER THE DEATH OF HUSBAND OR WIFE?

We proceed thus to the Second Article:—

Objection 1. It would seem that affinity does not remain after the death of husband or wife, between the blood-relations of husband and wife or *vice versa*. Because if the cause cease the effect ceases. Now the cause of affinity was the marriage, which ceases after the husband's death, since then *the woman . . . is loosed from the law of the husband* (Rom. vii. 2). Therefore the aforesaid affinity ceases also.

Obj. 2. Further, Consanguinity is the cause of affinity. Now the consanguinity of the husband with his blood-relations ceases at his death. Therefore, the wife's affinity with them ceases also.

On the contrary, Affinity is caused by consanguinity. Now consanguinity binds persons together for all time as long as they live. Therefore affinity does so also: and consequently affinity (between two persons) is not dissolved

through the dissolution of the marriage by the death of a third person.

I answer that, A relation ceases in two ways: in one way through the corruption of its subject, in another way by the removal of its cause; thus likeness ceases when one of the like subjects dies, or when the quality that caused the likeness is removed. Now there are certain relations which have for their cause an action, or a passion or movement (*Met.* v. 20): and some of these are caused by movement, through something being moved actually; such is the relation between mover and moved: some of them are caused through something being adapted to movement, for instance the relations between the motive power and the movable, or between master and servant; and some of them result from something having been moved previously, such as the relation between father and son, for the relation between them is caused not by (the son) being begotten now, but by his having been begotten. Now aptitude for movement and for being moved is transitory; whereas the fact of having been moved is everlasting, since what has been never ceases having been. Consequently fatherhood and sonship are never dissolved through the removal of the cause, but only through the corruption of the subject, that is of one of the subjects. The same applies to affinity, for this is caused by certain persons having been joined together, not by their being actually joined. Wherefore it is not done away, as long as the persons between whom affinity has been contracted survive, although the person die through whom it was contracted.

Reply Obj. 1. The marriage tie causes affinity not only by reason of actual union, but also by reason of the union having been effected in the past.

Reply Obj. 2. Consanguinity is not the chief cause of affinity, but union with a blood-relation, not only because that union is now, but because it has been. Hence the argument does not prove.

THIRD ARTICLE.

WHETHER UNLAWFUL INTERCOURSE CAUSES AFFINITY?

We proceed thus to the Third Article:—

Objection 1. It would seem that unlawful intercourse does not cause affinity. For affinity is an honourable thing. Now honourable things do not result from that which is dishonourable. Therefore affinity cannot be caused by a dishonourable intercourse.

Obj. 2. Further, Where there is consanguinity there cannot be affinity; since affinity is a relationship between persons that results from carnal intercourse and is altogether void of blood-relationship. Now if unlawful intercourse were a cause of affinity, it would sometimes happen that a man would contract affinity with his blood-relations and with himself: for instance when a man is guilty of incest with a blood-relation. Therefore affinity is not caused by unlawful intercourse.

Obj. 3. Further, Unlawful intercourse is according to nature or against nature. Now affinity is not caused by unnatural unlawful intercourse as decided by law (cap. *Extraordinaria*, xxxv. qu. 3). Therefore it is not caused only by unlawful intercourse according to nature.

On the contrary, He who is joined to a harlot is made one body (1 Cor. vi. 16). Now this is the reason why marriage caused affinity. Therefore unlawful intercourse does so for the same reason.

Further, Carnal intercourse is the cause of affinity, as shown by the definition of affinity, which definition is as follows: Affinity is the relationship of persons which results from carnal intercourse and is altogether void of blood-relationship. But there is carnal copulation even in unlawful intercourse. Therefore unlawful intercourse causes affinity.

I answer that, According to the Philosopher (*Ethic.* viii. 12) the union of husband and wife is said to be natural chiefly on account of the procreation of offspring, and secondly on account of the community of works: the former of which belongs to marriage by reason of carnal copulation, and the

latter, in so far as marriage is a partnership directed to a common life. Now the former is to be found in every carnal union where there is a mingling of seeds, since such a union may be productive of offspring, but the latter may be wanting. Consequently since marriage caused affinity, in so far as it was a carnal mingling, it follows that also an unlawful intercourse causes affinity in so far as it has something of natural copulation.

Reply Obj. 1. In an unlawful intercourse there is something natural which is common to fornication and marriage, and in this respect it causes affinity. There is also something which is inordinate whereby it differs from marriage, and in this respect it does not cause affinity. Hence affinity remains honourable, although its cause is in a way dishonourable.

Reply Obj. 2. There is no reason why diverse relations should not be in the same subject by reason of different things. Consequently there can be affinity and consanguinity between two persons, not only on account of unlawful but also on account of lawful intercourse: for instance if a blood-relation of mine on my father's side marries a blood-relation of mine on my mother's side. Hence in the above definition the words *which is altogether void of blood-relationship* apply to affinity as such. Nor does it follow that a man by having intercourse with his blood-relation contracts affinity with himself, since affinity, like consanguinity, requires diversity of subjects, as likeness does.

Reply Obj. 3. In unnatural copulation there is no mingling of seeds that makes generation possible: wherefore a like intercourse does not cause affinity.

Fourth Article.

whether affinity is caused by betrothal?

We proceed thus to the Fourth Article :—

Objection 1. It would seem that affinity cannot be caused by betrothal. For affinity is a lasting tie: whereas a

betrothal is sometimes broken off. Therefore it cannot cause affinity.

Obj. 2. Further, If the hymen be penetrated without the deed being consummated, affinity is not contracted. Yet this is much more akin to carnal intercourse than a betrothal. Therefore betrothal does not cause affinity.

Obj. 3. Further, Betrothal is nothing but a promise of future marriage. Now sometimes there is a promise of future marriage without affinity being contracted, for instance if it take place before the age of seven years; or if a man having a perpetual impediment of impotence promise a woman future marriage; or if a like promise be made between persons to whom marriage is rendered unlawful by a vow; or in any other way whatever. Therefore betrothal cannot cause affinity.

On the contrary, Pope Alexander (cap. *Ad audiendam,* De spons. et matrim.) forbade a certain woman to marry a certain man, because she had been betrothed to his brother. Now this would not be the case unless affinity were contracted by betrothal. Therefore, etc.

I answer that, Just as a betrothal has not the conditions of a perfect marriage, but is a preparation for marriage, so betrothal causes not affinity as marriage does, but something like affinity. This is called the justice of public honesty, which is an impediment to marriage even as affinity and consanguinity are, and according to the same degrees, and is defined thus: *The justice of public honesty is a relationship arising out of betrothal, and derives its force from ecclesiastical institution by reason of its honesty.* This indicates the reason of its name as well as its cause, namely that this relationship was instituted by the Church on account of its honesty.

Reply Obj. 1. Betrothal, by reason not of itself but of the end to which it is directed, causes this kind of affinity known as *the justice of public honesty:* wherefore just as marriage is a lasting tie, so is the aforesaid kind of affinity.

Reply Obj. 2. In carnal intercourse man and woman become one flesh by the mingling of seeds. Wherefore it

is not every invasion or penetration of the hymen that causes affinity to be contracted, but only such as is followed by a mingling of seeds. But marriage causes affinity not only on account of carnal intercourse, but also by reason of the conjugal fellowship, in respect of which also marriage is according to nature. Consequently affinity results from the marriage contract itself expressed in words of the present and before its consummation, and in like manner there results from betrothal, which is a promise of conjugal fellowship, something akin to affinity, namely the justice of public honesty.

Reply Obj. 3. All those impediments which void a betrothal prevent affinity being contracted through a promise of marriage. Hence whether he who actually promises marriage be lacking in age, or be under a solemn vow of continence or any like impediment, no affinity nor anything akin to it results because the betrothal is void. If, however, a minor, labouring under insensibility or malefice, having a perpetual impediment, is betrothed before the age of puberty and after the age of seven years, with a woman who is of age, from such a contract there results the impediment called justice of public honesty, because at the time the impediment was not actual, since at that age the boy who is insensible is equally impotent in respect of the act in question.

Fifth Article.

whether affinity is a cause of affinity?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that affinity also is a cause of affinity. For Pope Julius says (cap. *Et hoc Quoque*, 35 qu. iii.): *No man may marry his wife's surviving blood-relation*, and it is said in the next chapter (cap. *Porro duorum*) that *the wives of two cousins are forbidden to marry, one after the other, the same husband.* But this is only on account of affinity being contracted through union with a person related by affinity. Therefore affinity is a cause of affinity.

Obj. 2. Further, Carnal intercourse makes persons akin even as carnal procreation, since the degrees of affinity and consanguinity are reckoned equally. But consanguinity causes affinity. Therefore affinity does also.

Obj. 3. Further, Things that are the same with one and the same are the same with one another. But the wife contracts the same relations with all her husband's kindred. Therefore all her husband's kindred are made one with all who are related by affinity to the wife, and thus affinity is the cause of affinity.

Obj. 4. *On the contrary,* If affinity is caused by affinity a man who has connexion with two women can marry neither of them, because then the one would be related to the other by affinity. But this is false. Therefore affinity does not cause affinity.

Obj. 5. Further, If affinity arose out of affinity a man by marrying another man's widow would contract affinity with all her first husband's kindred, since she is related to them by affinity. But this cannot be the case because he would become especially related by affinity to her deceased husband. Therefore, etc.

Obj. 6. Further, Consanguinity is a stronger tie than affinity. But the blood-relations of the wife do not become blood-relations of the husband. Much less, therefore, does affinity to the wife cause affinity to her blood-relations, and thus the same conclusion follows.

I answer that, There are two ways in which one thing proceeds from another: in one way a thing proceeds from another in likeness of species, as a man is begotten of a man; in another way one thing proceeds from another, not in likeness of species; and this process is always towards a lower species, as instanced in all equivocal agents. The first kind of procession, however often it be repeated, the same species always remains: thus if one man be begotten of another by an act of the generative power, of this man also another man will be begotten, and so on. But the second kind of procession, just as in the first instance it produces another species, so it makes another species as

often as it is repeated. Thus by movement from a point there proceeds a line and not a point, because a point by being moved makes a line; and from a line moved lineally, there proceeds not a line but a surface, and from a surface a body, and in this way the procession can go no further. Now in the procession of kinship we find two kinds whereby this tie is caused: one is by carnal procreation, and this always produces the same species of relationship; the other is by the marriage union, and this produces a different kind of relationship from the beginning: thus it is clear that a married woman is related to her husband's blood-relations not by blood but by affinity. Wherefore if this kind of process be repeated, the result will be not affinity but another kind of relationship; and consequently a married party contracts with the affines of the other party a relation not of affinity but of some other kind which is called affinity of the second kind. And again if a person through marriage contracts relationship with an affine of the second kind, it will not be affinity of the second kind, but of a third kind, as indicated in the verse quoted above (A. 1). Formerly these two kinds were included in the prohibition, under the head of the justice of public honesty rather than under the head of affinity, because they fall short of true affinity, in the same way as the relationship arising out of betrothal. Now however they have ceased to be included in the prohibition, which now refers only to the first kind of affinity in which true affinity consists.

Reply Obj. 1. A husband contracts affinity of the first kind with his wife's male blood-relation, and affinity of the second kind with the latter's wife: wherefore if the latter man dies the former cannot marry his widow on account of the second kind of affinity. Again if a man *A* marry a widow *B*, *C*, a relation of her former husband being connected with *B* by the first kind of affinity, contracts affinity of the second kind with her husband *A;* and *D*, the wife of this relation *C* being connected, by affinity of the second kind, with *B*, this man's wife contracts affinity of the third kind with her husband *A*. And since the third kind of affinity was

included in the prohibition on account of a certain honesty more than by reason of affinity, the canon (cap. *Porro duorum*, 35, qu. iii.) says: *The justice of public honesty forbids the wives of two cousins to be married to the same man, the one after the other.* But this prohibition is done away with.

Reply Obj. 2. Although carnal intercourse is a cause of people being connected with one another, it is not the same kind of connexion.

Reply Obj. 3. The wife contracts the same connexion with her husband's relatives as to the degree but not as to the kind of connexion.

Since however the arguments in the contrary sense would seem to show that no tie is caused by affinity, we must reply to them lest the time-honoured prohibition of the Church seem unreasonable.

Reply Obj. 4. As stated above, A woman does not contract affinity of the first kind with the man to whom she is united in the flesh, wherefore she does not contract affinity of the second kind with a woman known by the same man; and consequently if a man marry one of these women, the other does not contract affinity of the third kind with him. And so the laws of bygone times did not forbid the same man to marry successively two women known by one man.

Reply Obj. 5. As a man is not connected with his wife by affinity of the first kind, so he does not contract affinity of the second kind with the second husband of the same wife. Wherefore the argument does not prove.

Reply Obj. 6. One person is not connected with me through another, except they be connected together. Hence through a woman who is affine to me, no person becomes connected with me, except such as is connected with her. Now this cannot be except through carnal procreation from her, or through connexion with her by marriage: and according to the olden legislation, I contracted some kind of connexion through her in both ways: because her son even by another husband becomes affine to me in the same kind and in a different degree of affinity, as appears from the rule given above: and again her second husband becomes

affine to me in the second kind of affinity. But her other blood-relations are not connected with him, but she is connected with them, either as with father or mother, inasmuch as she descends from them, or, as with her brothers, as proceeding from the same principle; wherefore the brother or father of my affine does not become affine to me in any kind of affinity.

Sixth Article.

whether affinity is an impediment to marriage?

We proceed thus to the Sixth Article :—

Objection 1. It would seem that affinity is not an impediment to marriage. For nothing is an impediment to marriage except what is contrary thereto. But affinity is not contrary to marriage since it is caused by it. Therefore it is not an impediment to marriage.

Obj. 2. Further, By marriage the wife becomes a possession of the husband. Now the husband's kindred inherit his possessions after his death. Therefore they can succeed to his wife, although she is affine to them, as shown above (A. 5). Therefore affinity is not an impediment to marriage.

On the contrary, It is written (Lev. xviii. 8): *Thou shalt not uncover the nakedness of thy father's wife.* Now she is only affine. Therefore affinity is an impediment to marriage.

I answer that, Affinity that precedes marriage hinders marriage being contracted and voids the contract, for the same reason as consanguinity. For just as there is a certain need for blood-relations to live together, so is there for those who are connected by affinity: and just as there is a tie of friendship between blood-relations, so is there between those who are affine to one another. If, however, affinity supervene to matrimony, it cannot void the marriage, as stated above (Q. L., A. 7).

Reply Obj. 1. Affinity is not contrary to the marriage which causes it, but to a marriage being contracted with an affine, in so far as the latter would hinder the extension of friendship and the curbing of concupiscence, which are sought in marriage.

Reply Obj. 2. The husband's possessions do not become one with him as the wife is made one flesh with him. Wherefore just as consanguinity is an impediment to marriage or union with the husband according to the flesh, so is one forbidden to marry the husband's wife.

SEVENTH ARTICLE.

WHETHER AFFINITY IN ITSELF ADMITS OF DEGREES?

We proceed thus to the Seventh Article :—

Objection 1. It would seem that affinity in itself admits of degrees. For any kind of propinquity can itself be the subject of degrees. Now affinity is a kind of propinquity. Therefore it has degrees in itself apart from the degrees of consanguinity by which it is caused.

Obj. 2. Further, It is stated in the text (iv. *Sent.* D. 41) that the child of a second marriage could not take a consort from within the degrees of affinity of the first husband. But this would not be the case unless the son of an affine were also affine. Therefore affinity like consanguinity admits itself of degrees.

On the contrary, Affinity is caused by consanguinity. Therefore all the degrees of affinity are caused by the degrees of consanguinity: and so it has no degrees of itself.

I answer that, A thing does not of itself admit of being divided except in reference to something belonging to it by reason of its genus: thus animal is divided into rational and irrational and not into white and black. Now carnal procreation has a direct relation to consanguinity, because the tie of consanguinity is immediately contracted through it; whereas it has no relation to affinity except through consanguinity which is the latter's cause. Wherefore since the degrees of relationship are distinguished in reference to carnal procreation, the distinction of degrees is directly and immediately referable to consanguinity, and to affinity through consanguinity. Hence the general rule in seeking the degrees of affinity is that in whatever degree of consanguinity I

am related to the husband, in that same degree of affinity I am related to the wife.

Reply Obj. 1. The degrees in propinquity of relationship can only be taken in reference to ascent and descent of propagation, to which affinity is compared only through consanguinity. Wherefore affinity has no direct degrees, but derives them according to the degrees of consanguinity.

Reply Obj. 2. Formerly it used to be said that the son of my affine by a second marriage was affine to me, not directly but accidentally as it were: wherefore he was forbidden to marry on account of the justice of public honesty rather than affinity. And for this reason this prohibition is now revoked.

Eighth Article.

whether the degrees of affinity extend in the same way as the degrees of consanguinity?

We proceed thus to the Eighth Article:—

Objection 1. It would seem that the degrees of affinity do not extend in the same way as the degrees of consanguinity. For the tie of affinity is less strong than the tie of consanguinity, since affinity arises from consanguinity in diversity of species, as from an equivocal cause. Now the stronger the tie the longer it lasts. Therefore the tie of affinity does not last to the same number of degrees as consanguinity.

Obj. 2. Further, Human law should imitate Divine law. Now according to the Divine law certain degrees of consanguinity were forbidden, in which degrees affinity was not an impediment to marriage: as instanced in a brother's wife whom a man could marry although he could not marry her sister. Therefore now too the prohibition of affinity and consanguinity should not extend to the same degrees.

On the contrary, A woman is connected with me by affinity from the very fact that she is married to a blood-relation of mine. Therefore in whatever degree her husband is related to me by blood she is related to me in that same degree by affinity: and so the degrees of affinity should be reckoned in the same number as the degrees of consanguinity.

I answer that, Since the degrees of affinity are reckoned according to the degrees of consanguinity, the degrees of affinity must needs be the same in number as those of consanguinity. Nevertheless, affinity being a lesser tie than consanguinity, both formerly and now, a dispensation is more easily granted in the more remote degrees of affinity than in the remote degrees of consanguinity.

Reply Obj. 1. The fact that the tie of affinity is less than the tie of consanguinity causes a difference in the kind of relationship but not in the degrees. Hence this argument is not to the point.

Reply Obj. 2. A man could not take his deceased brother's wife except, in the case when the latter died without issue, in order to raise up seed to his brother. This was requisite at a time when religious worship was propagated by means of the propagation of the flesh, which is not the case now. Hence it is clear that he did not marry her in his own person as it were, but as supplying the place of his brother.

NINTH ARTICLE.

WHETHER A MARRIAGE CONTRACTED BY PERSONS WITHIN THE DEGREES OF AFFINITY OR CONSANGUINITY SHOULD ALWAYS BE ANNULLED?

We proceed thus to the Ninth Article:—

Objection 1. It would seem that a marriage contracted by persons within the degrees of affinity or consanguinity ought not always to be annulled by divorce. For *what God hath joined together let no man put asunder* (Matt. xix. 6). Since then it is understood that what the Church does God does, and since the Church sometimes through ignorance joins such persons together, it would seem that if subsequently this came to knowledge they ought not to be separated.

Obj. 2. Further, The tie of marriage is less onerous than the tie of ownership. Now after a long time a man may acquire by prescription the ownership of a thing of which he was not the owner. Therefore by length of time a marriage becomes good in law, although it was not so before.

Obj. 3. Further, Of like things we judge alike. Now if a marriage ought to be annulled on account of consanguinity, in the case when two brothers marry two sisters, if one be separated on account of consanguinity, the other ought to be separated for the same reason; and yet this is not seemly. Therefore a marriage ought not to be annulled on account of affinity or consanguinity.

On the contrary, Consanguinity and affinity forbid the contracting of a marriage and void the contract. Therefore if affinity or consanguinity be proved, the parties should be separated even though they have actually contracted marriage.

I answer that, Since all copulation apart from lawful marriage is a mortal sin, which the Church uses all her endeavours to prevent, it belongs to her to separate those between whom there cannot be valid marriage, especially those related by blood or by affinity, who cannot without incest be united in the flesh.

Reply Obj. 1. Although the Church is upheld by God's gift and authority, yet in so far as she is an assembly of men there results in her acts something of human frailty which is not Divine. Therefore a union effected in the presence of the Church who is ignorant of an impediment is not indissoluble by Divine authority, but is brought about contrary to Divine authority through man's error, which being an error of fact excuses from sin, as long as it remains. Hence when the impediment comes to the knowledge of the Church, she ought to sever the aforesaid union.

Reply Obj. 2. That which cannot be done without sin is not ratified by any prescription, for as Innocent III. says (Conc. Later. iv. can. 50: cap. *Non debent,* De consang. et affinit.), *length of time does not diminish sin but increases it:* nor can it in any way legitimize a marriage which could not take place between unlawful persons.

Reply Obj. 3. In contentious suits between two persons the verdict does not prejudice a third party, wherefore although the one brother's marriage with the one sister is annulled on account of consanguinity, the Church does

not therefore annul the other marriage against which no action is taken. Yet in the tribunal of the conscience the other brother ought not on this account always to be bound to put away his wife, because such accusations frequently proceed from ill-will, and are proved by false witnesses. Hence he is not bound to form his conscience on what has been done about the other marriage: but seemingly one ought to draw a distinction, because either he has certain knowledge of the impediment of his marriage, or he has an opinion about it, or he has neither. In the first case, he can neither seek nor pay the debt, in the second, he must pay, but not ask, in the third he can both pay and ask.

TENTH ARTICLE.

WHETHER IT IS NECESSARY TO PROCEED BY WAY OF ACCUSATION FOR THE SEVERING OF A MARRIAGE CONTRACTED BY PERSONS RELATED TO ONE ANOTHER BY AFFINITY OR CONSANGUINITY?

We proceed thus to the Tenth Article:—

Objection 1. It would seem that one ought not to proceed by way of accusation in order to sever a marriage contracted between persons related by affinity or consanguinity. Because accusation is preceded by inscription* whereby a man binds himself to suffer the punishment of retaliation, if he fail to prove his accusation. But this is not required when a matrimonial separation is at issue. Therefore accusation has no place then.

Obj. 2. Further, In a matrimonial lawsuit only the relatives are heard, as stated in the text (iv. *Sent.* D. 41). But in accusations even strangers are heard. Therefore in a suit for matrimonial separation the process is not by way of accusation.

Obj. 3. Further, If a marriage ought to be denounced this should be done especially where it is least difficult to sever the tie. Now this is when only the betrothal has been

* The accuser was bound by Roman Law to endorse (*se inscribere*) the writ of accusation.

contracted, and then it is not the marriage that is denounced. Therefore accusation should never take place at any other time.

Obj. 4. Further, A man is not prevented from accusing by the fact that he does not accuse at once. But this happens in marriage, for if he was silent at first when the marriage was being contracted, he cannot denounce the marriage afterwards without laying himself open to suspicion. Therefore, etc.

On the contrary, Whatever is unlawful can be denounced. But the marriage of relatives by affinity and consanguinity is unlawful. Therefore it can be denounced.

I answer that, Accusation is instituted lest the guilty be tolerated as though they were innocent. Now just as it happens through ignorance of fact that a guilty man is reputed innocent, so it happens through ignorance of a circumstance that a certain fact is deemed lawful whereas it is unlawful. Wherefore just as a man is sometimes accused, so is a fact sometimes an object of accusation. It is in this way that a marriage is denounced, when through ignorance of an impediment it is deemed lawful, whereas it is unlawful.

Reply Obj. 1. The punishment of retaliation takes place when a person is accused of a crime, because then action is taken that he may be punished. But when it is a deed that is accused, action is taken not for the punishment of the doer, but in order to prevent what is unlawful. Hence in a matrimonial suit the accuser does not bind himself to a punishment. Moreover, the accusation may be made either in words or in writing, provided the person who denounces the marriage denounced, and the impediment for which it is denounced, be expressed.

Reply Obj. 2. Strangers cannot know of the consanguinity except from the relatives, since these know with greater probability. Hence when these are silent, a stranger is liable to be suspected of acting from ill-will unless he wish the relatives to prove his assertion. Wherefore a stranger is debarred from accusing when there are relatives who are silent, and by whom he cannot prove his accusation. On

the other hand the relatives, however nearly related they be, are not debarred from accusing, when the marriage is denounced on account of a perpetual impediment, which prevents the contracting of the marriage and voids the contract. When, however, the accusation is based on a denial of the contract having taken place, the parents should be debarred from witnessing as being liable to suspicion, except those of the party that is inferior in rank and wealth, for they, one is inclined to think, would be willing for the marriage to stand.

Reply Obj. 3. If the marriage is not yet contracted and there is only a betrothal, there can be no accusation, for what is not, cannot be accused. But the impediment can be denounced lest the marriage be contracted.

Reply Obj. 4. He who is silent at first is sometimes heard afterwards if he wish to denounce the marriage, and sometimes he is repulsed. This is made clear by the Decretal (cap. *Cum in tua,* De his qui matrim. accus. possunt.) which runs as follows: *If an accuser present himself after the marriage has been contracted, since he did not declare himself when according to custom, the banns were published in church, we may rightly ask whether he should be allowed to voice his accusation. In this matter we deem that a distinction should be made, so that if he who lodges information against persons already married was absent from the diocese at the time of the aforesaid publication, or if for some other reason this could not come to his knowledge, for instance if through exceeding stress of weakness and fever he was not in possession of his faculties, or was of so tender years as to be too young to understand such matters, or if he were hindered by some other lawful cause, his accusation should be heard. Otherwise without doubt he should be repulsed as open to suspicion, unless he swear that the information lodged by him came to his knowledge subsequently and that he is not moved by ill-will to make his accusation.*

Eleventh Article.

WHETHER IN A SUIT FOR THE SEVERANCE OF A MARRIAGE BETWEEN PERSONS RELATED BY AFFINITY OR CONSANGUINITY ONE SHOULD PROCEED BY HEARING WITNESSES?

We proceed thus to the Eleventh Article :—

Objection 1. It would seem that in such a suit one ought not to proceed by hearing witnesses, in the same way as in other suits where any witnesses may be called provided they be unexceptionable. But here strangers are not admitted, although they be unexceptionable. Therefore, etc.

Obj. 2. Further, Witnesses who are suspected of private hatred or love are debarred from giving evidence. Now relatives are especially open to suspicion of love for one party, and hatred for the other. Therefore their evidence should not be taken.

Obj. 3. Further, Marriage is a more favourable suit than those others in which purely corporeal questions are at stake. Now in these the same person cannot be both accuser and witness. Neither therefore can this be in a matrimonial suit; and so it would appear that it is not right to proceed by hearing witnesses in a suit of this kind.

On the contrary, Witnesses are called in a suit in order to give the judge evidence concerning matters of doubt. Now evidence should be afforded the judge in this suit as in other suits, since he must not pronounce a hasty judgment on what is not proven. Therefore here as in other lawsuits witnesses should be called.

I answer that, In this kind of lawsuit as in others, truth must be unveiled by witnesses: yet, as the lawyers say, there are many things peculiar to this suit; namely that *the same person can be accuser and witness; that evidence is not taken 'on oath of calumny,' since it is a quasi-spiritual lawsuit; that relatives are allowed as witnesses; that the juridical order is not perfectly observed, since if the denunciation has been made, and the suit is uncontested, the defendant may be excommunicated if contumacious; that hearsay evidence*

is admitted; and that witnesses may be called after the publication of the names of the witnesses. All this is in order to prevent the sin that may occur in such a union (cap. *Quoties aliqui:* cap. *Super eo,* De test. et attest.: cap. *Litteras,* De juram. calumn.).

This suffices for the *Replies* to the *Objections.*

QUESTION LVI.

OF THE IMPEDIMENT OF SPIRITUAL RELATIONSHIP.

(*In Five Articles.*)

We must now consider the impediment of spiritual relationship: under which head there are five points of inquiry: (1) Whether spiritual relationship is an impediment to marriage? (2) From what cause is it contracted? (3) Between whom? (4) Whether it passes from husband to wife? (5) Whether it passes to the father's carnal children?

First Article.

WHETHER SPIRITUAL RELATIONSHIP IS AN IMPEDIMENT TO MARRIAGE?

We proceed thus to the First Article :—

Objection 1. It would seem that spiritual relationship is not an impediment to marriage. For nothing is an impediment to marriage save what is contrary to a marriage good. Now spiritual relationship is not contrary to a marriage good. Therefore it is not an impediment to marriage.

Obj. 2. Further, A perpetual impediment to marriage cannot stand together with marriage. But spiritual relationship sometimes stands together with marriage, as stated in the text (iv. *Sent.* D. 42.), as when a man in a case of necessity baptizes his own child, for then he contracts a spiritual relationship with his wife, and yet the marriage is not dissolved. Therefore spiritual relationship is not an impediment to marriage.

Obj. 3. Further, Union of the spirit does not pass to the flesh. But marriage is a union of the flesh. Therefore

since spiritual relationship is a union of the spirit, it cannot become an impediment to marriage.

Obj. 4. Further, Contraries have not the same effects. Now spiritual relationship is apparently contrary to disparity of worship, since spiritual relationship is a kinship resulting from the giving of a sacrament or the intention of so doing:* whereas disparity of worship consists in the lack of a sacrament, as stated above (Q. L., A. 1). Since then disparity of worship is an impediment to matrimony, it would seem that spiritual relationship has not this effect.

On the contrary, The holier the bond, the more is it to be safeguarded. Now a spiritual bond is holier than a bodily tie: and since the tie of bodily kinship is an impediment to marriage, it follows that spiritual relationship should also be an impediment.

Further, In marriage the union of souls ranks higher than union of bodies, for it precedes it. Therefore with much more reason can a spiritual relationship hinder marriage than bodily relationship does.

I answer that, Just as by carnal procreation man receives natural being, so by the sacraments he receives the spiritual being of grace. Wherefore just as the tie that is contracted by carnal procreation is natural to man, inasmuch as he is a natural being, so the tie that is contracted from the reception of the sacraments is after a fashion natural to man, inasmuch as he is a member of the Church. Therefore as carnal relationship hinders marriage, even so does spiritual relationship by command of the Church. We must however draw a distinction in reference to spiritual relationship, since either it precedes or follows marriage. If it precedes, it hinders the contracting of marriage and voids the contract. If it follows, it does not dissolve the marriage bond: but we must draw a further distinction in reference to the marriage act. For either the spiritual relationship is contracted in a case of necessity, as when a father baptizes his child who is at the point of death—and then it is not an obstacle to the marriage act on either side—or it is contracted without

* See next Article, *ad* 3.

any necessity and through ignorance, in which case if the person whose action has occasioned the relationship acted with due caution, it is the same with him as in the former case—or it is contracted purposely and without any necessity, and then the person whose action has occasioned the relationship, loses the right to ask for the debt; but is bound to pay if asked, because the fault of the one party should not be prejudicial to the other.

Reply Obj. 1. Although spiritual relationship does not hinder any of the chief marriage goods, it hinders one of the secondary goods, namely the extension of friendship, because spiritual relationship is by itself a sufficient reason for friendship: wherefore intimacy and friendship with other persons need to be sought by means of marriage.

Reply Obj. 2. Marriage is a lasting bond, wherefore no supervening impediment can sever it. Hence it happens sometimes that marriage and an impediment to marriage stand together, but not if the impediment precedes.

Reply Obj. 3. In marriage there is not only a bodily but also a spiritual union: and consequently kinship of spirit proves an impediment thereto, without spiritual kinship having to pass into a bodily relationship.

Reply Obj. 4. There is nothing unreasonable in two things that are contrary to one another being contrary to the same thing, as great and small are contrary to equal. Thus disparity of worship and spiritual relationship are opposed to marriage, because in one the distance is greater, and in the other less, than required by marriage. Hence there is an impediment to marriage in either case.

Second Article.

whether spiritual relationship is contracted by baptism only?

We proceed thus to the Second Article:—

Objection 1. It would seem that spiritual relationship is contracted by Baptism only. For as bodily kinship is to bodily birth, so is spiritual kinship to spiritual birth. Now

Baptism alone is called spiritual birth. Therefore spiritual kinship is contracted by Baptism only, even as only by carnal birth is carnal kinship contracted.

Obj. 2. Further, A character is imprinted in Order as in Confirmation. But spiritual relationship does not result from receiving Orders. Therefore it does not result from Confirmation but only from Baptism.

Obj. 3. Further, Sacraments are more excellent than sacramentals. Now spiritual relationship does not result from certain sacraments, for instance from Extreme Unction. Much less therefore does it result from catechizing, as some maintain.

Obj. 4. Further, Many other sacramentals are attached to Baptism besides catechizing. Therefore spiritual relationship is not contracted from catechism any more than from the others.

Obj. 5. Further, Prayer is no less efficacious than instruction or catechism for advancement in good. But spiritual relationship does not result from prayer. Therefore it does not result from catechism.

Obj. 6. Further, The instruction given to the baptized by preaching to them avails no less than preaching to those who are not yet baptized. But no spiritual relationship results from preaching. Neither therefore does it result from catechism.

Obj. 7. *On the other hand,* It is written (1 Cor. iv. 15): *In Christ Jesus by the gospel I have begotten you.* Now spiritual birth causes spiritual relationship. Therefore spiritual relationship results from the preaching of the gospel and instruction, and not only from Baptism.

Obj. 8. Further, As original sin is taken away by Baptism, so is actual sin taken away by Penance. Therefore just as Baptism causes spiritual relationship, so also does Penance.

Obj. 9. Further, *Father* denotes relationship. Now a man is called another's spiritual father in respect of Penance, teaching, pastoral care and many other like things. Therefore spiritual relationship is contracted from many other sources besides Baptism and Confirmation.

I answer that, There are three opinions on this question. Some say that as spiritual regeneration is bestowed by the sevenfold grace of the Holy Ghost, it is caused by means of seven things, beginning with the first taste of blessed salt and ending with Confirmation given by the bishop: and they say that spiritual relationship is contracted by each of these seven things. But this does not seem reasonable, for carnal relationship is not contracted except by a perfect act of generation. Wherefore affinity is not contracted except there be mingling of seeds, from which it is possible for carnal generation to follow. Now spiritual generation is not perfected except by a sacrament: wherefore it does not seem fitting for spiritual relationship to be contracted otherwise than through a sacrament. Hence others say that spiritual relationship is only contracted through three sacraments, namely catechism, Baptism and Confirmation, but these do not apparently know the meaning of what they say, since catechism is not a sacrament, but a sacramental. Wherefore others say that it is contracted through two sacraments only, namely Confirmation and Baptism, and this is the more common opinion. Some however of these say that catechism is a weak impediment, since it hinders the contracting of marriage but does not void the contract.

Reply Obj. 1. Carnal birth is twofold. The first is in the womb, wherein that which is born is a weakling and cannot come forth without danger: and to this birth regeneration by Baptism is likened; wherein a man is regenerated as though yet needing to be fostered in the womb of the Church. The second is birth from out of the womb, when that which was born in the womb is so far strengthened that it can without danger face the outer world which has a natural corruptive tendency. To this is likened Confirmation, whereby man being strengthened goes forth abroad to confess the name of Christ. Hence spiritual relationship is fittingly contracted through both these sacraments.

Reply Obj. 2. The effect of the sacrament of Order is not regeneration but the bestowal of power, for which reason it is not conferred on women, and consequently no impedi-

ment to marriage can arise therefrom. Hence this kind of relationship does not count.

Reply Obj. 3. In catechism one makes a profession of future Baptism, just as in betrothal one enters an engagement of future marriage. Wherefore just as in betrothal a certain kind of propinquity is contracted, so is there in catechism, whereby marriage is rendered at least unlawful, as some say; but not in the other sacraments.

Reply Obj. 4. There is not made a profession of faith in the other sacramentals of Baptism, as in catechism: wherefore the comparison fails.

The same answer applies to the Fifth and Sixth Objections.

Reply Obj. 7. The Apostle had instructed them in the faith by a kind of catechism; and consequently his instruction was directed to their spiritual birth.

Reply Obj. 8. Properly speaking a spiritual relationship is not contracted through the sacrament of Penance. Wherefore a priest's son can marry a woman whose confession the priest has heard, else in the whole parish he could not find a woman whom he could marry. Nor does it matter that by Penance actual sin is taken away, for this is not a kind of birth, but a kind of healing. Nevertheless Penance occasions a kind of bond between the woman penitent and the priest, that has a resemblance to spiritual relationship, so that if he have carnal intercourse with her, he sins as grievously as if she were his spiritual daughter. The reason of this is that the relations between priest and penitent are most intimate, and consequently in order to remove the occasion of sin this prohibition* was made.

Reply Obj. 9. A spiritual father is so called from his likeness to a carnal father. Now as the Philosopher says (*Ethic.* viii. 2) a carnal father gives his child three things, being, nourishment and instruction: and consequently a person's spiritual father is so called from one of these three things. Nevertheless he has not, through being his spiritual father, a spiritual relationship with him, unless he is like a (carnal)

* Can. *Omnes quos*, and *seqq.*, Caus. xxx.

father as to generation which is the way to being. This solution may also be applied to the foregoing Eighth Objection.

Third Article.

Whether spiritual relationship is contracted between the person baptized and the person who raises him from the sacred font?

We proceed thus to the Third Article:—

Objection 1. It would seem that spiritual relationship is not contracted between the person baptized and the person who raises him from the sacred font. For in carnal generation carnal relationship is contracted only on the part of the person of whose seed the child is born, and not on the part of the person who receives the child after birth. Therefore neither is spiritual relationship contracted between the receiver and the received at the sacred font.

Obj. 2. Further, He who raises a person from the sacred font is called ἀνάδοχος by Dionysius (*Eccl. Hier.* ii.): and it is part of his office to instruct the child. But instruction is not a sufficient cause of spiritual relationship, as stated above (A. 2). Therefore no relationship is contracted between him and the person whom he raises from the sacred font.

Obj. 3. Further, It may happen that someone raises a person from the sacred font before he himself is baptized. Now spiritual relationship is not contracted in such a case, since one who is not baptized is not capable of spirituality. Therefore raising a person from the sacred font is not sufficient to contract a spiritual relationship.

On the contrary, There is the definition of spiritual relationship quoted above (A. 1), as also the authorities mentioned in the text (iv. *Sent.* D. 42.).

I answer that, Just as in carnal generation a person is born of a father and mother, so in spiritual generation a person is born again a son of God as Father, and of the Church as Mother. Now while he who confers the sacrament stands in the place of God, whose instrument and minister he is,

he who raises a baptized person from the sacred font, or holds the candidate for Confirmation, stands in the place of the Church. Therefore spiritual relationship is contracted with both.

Reply Obj. 1. Not only the father, of whose seed the child is born, is related carnally to the child, but also the mother who provides the matter, and in whose womb the child is begotten. So too the godparent who in place of the Church offers and raises the candidate for Baptism and holds the candidate for Confirmation contracts spiritual relationship.

Reply Obj. 2. He contracts spiritual relationship not by reason of the instruction it is his duty to give, but on account of the spiritual birth in which he co-operates.

Reply Obj. 3. A person who is not baptized cannot raise anyone from the sacred font, since he is not a member of the Church whom the godparent in Baptism represents: although he can baptize, because he is a creature of God Whom the baptizer represents. And yet he cannot contract a spiritual relationship, since he is void of spiritual life to which man is first born by receiving Baptism.

Fourth Article.

WHETHER SPIRITUAL RELATIONSHIP PASSES FROM HUSBAND TO WIFE?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that spiritual relationship does not pass from husband to wife. For spiritual and bodily union are disparate and differ generically. Therefore carnal union which is between husband and wife cannot be the means of contracting a spiritual relationship.

Obj. 2. Further, The godfather and godmother have more in common in the spiritual birth that is the cause of spiritual relationship, than a husband, who is godfather, has with his wife. Now godfather and godmother do not hereby contract spiritual relationship. Therefore neither does a wife contract a spiritual relationship through her husband being godfather to someone.

Obj. 3. Further, It may happen that the husband is baptized, and his wife not, for instance when he is converted from unbelief without his wife being converted. Now spiritual relationship cannot be contracted by one who is not baptized. Therefore it does not always pass from husband to wife.

Obj. 4. Further, Husband and wife together can raise a person from the sacred font, since no law forbids it (Urban II., *ad Vital.*). If therefore spiritual relationship passed from husband to wife, it would follow that each of them is twice godfather or godmother of the same individual: which is absurd.

On the contrary, Spiritual goods are more communicable than bodily goods. But the bodily consanguinity of the husband passes to his wife by affinity. Much more therefore does spiritual relationship.

I answer that, A may become co-parent with *B* in two ways. First, by the act of another (*B*), who baptizes *A's* child, or raises him in Baptism. In this way spiritual relationship does not pass from husband to wife, unless perchance it be his wife's child, for then she contracts spiritual relationship directly, even as her husband. Secondly, by his own act, for instance when he raises *B's* child from the sacred font, and thus spiritual relationship passes to the wife if he has already had carnal knowledge of her, but not if the marriage be not yet consummated, since they are not as yet made one flesh: and this is by way of a kind of affinity; wherefore it would seem on the same grounds to pass to a woman of whom he has carnal knowledge, though she be not his wife. Hence the verse:

> I may not marry my own child's godmother, nor the mother of my godchild: but I may marry the godmother of my wife's child.

Reply Obj. 1. From the fact that corporal and spiritual union differ generically we may conclude that the one is not the other, but not that the one cannot cause the other, since things of different genera sometimes cause one another either directly or indirectly.

Reply Obj. 2. The godfather and godmother of the same person are not united in that person's spiritual birth save accidentally, since one of them would be self-sufficient for the purpose. Hence it does not follow from this that any spiritual relationship results between them whereby they are hindered from marrying one another. Hence the verse:

Of two coparents one is always spiritual, the other carnal: this rule is infallible.

On the other hand, marriage by itself makes husband and wife one flesh: wherefore the comparison fails.

Reply Obj. 3. If the wife be not baptized, the spiritual relationship will not reach her, because she is not a fit subject, and not because spiritual relationship cannot pass from husband to wife through marriage.

Reply Obj. 4. Since no spiritual relationship results between godfather and godmother, nothing prevents husband and wife from raising together someone from the sacred font. Nor is it absurd that the wife become twice godmother of the same person from different causes, just as it is possible for her to be connected in carnal relationship both by affinity and consanguinity to the same person.

Fifth Article.

WHETHER SPIRITUAL RELATIONSHIP PASSES TO THE GODFATHER'S CARNAL CHILDREN?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that spiritual relationship does not pass to the godfather's carnal children. For no degrees are assigned to spiritual relationship. Yet there would be degrees if it passed from father to son, since the person begotten involves a change of degree, as stated above (Q. LV., A. 5). Therefore it does not pass to the godfather's carnal sons.

Obj. 2. Further, Father and son are related in the same degree as brother and brother. If therefore spiritual relationship passes from father to son, it will equally pass from brother to brother: and this is false.

On the contrary, This is proved by authority quoted in the text (iv. *Sent.* D. 42.).

I answer that, A son is something of his father and not conversely (*Ethic.* viii. 12): wherefore spiritual relationship passes from father to his carnal son and not conversely. Thus it is clear that there are three spiritual relationships: one called spiritual fatherhood between godfather and godchild; another called co-paternity between the godparent and carnal parent of the same person; and the third is called spiritual brotherhood, between godchild and the carnal children of the same parent. Each of these hinders the contracting of marriage and voids the contract.

Reply Obj. 1. The addition of a person by carnal generation entails a degree with regard to a person connected by the same kind of relationship, but not with regard to one connected by another kind of relationship. Thus a son is connected with his father's wife in the same degree as his father, but by another kind of relationship. Now spiritual relationship differs in kind from carnal. Wherefore a godson is not related to his godfather's carnal son in the same degree as the latter's father is related to him, through whom the spiritual relationship is contracted. Consequently it does not follow that spiritual relationship admits of degrees.

Reply Obj. 2. A man is not part of his brother as a son is of his father. But a wife is part of her husband, since she is made one with him in body. Consequently the relationship does not pass from brother to brother, whether the brother be born before or after spiritual brotherhood.

QUESTION LVII.

OF LEGAL RELATIONSHIP, WHICH IS BY ADOPTION.

(*In Three Articles.*)

We must now consider legal relationship which is by adoption. Under this head there are three points of inquiry: (1) What is adoption? (2) Whether one contracts through it a tie that is an impediment to marriage? (3) Between which persons is this tie contracted?

First Article.

WHETHER ADOPTION IS RIGHTLY DEFINED?

We proceed thus to the First Article :—

Objection 1. It would seem that adoption is not rightly defined: *Adoption is the act by which a person lawfully takes for his child or grandchild and so on one who does not belong to him.* For the child should be subject to its father. Now, sometimes the person adopted does not come under the power of the adopter. Therefore adoption is not always the taking of someone as a child.

Obj. 2. Further, *Parents should lay up for their children* (2 Cor. xii. 14). But the adoptive father does not always necessarily lay up for his adopted child, since sometimes the adopted does not inherit the goods of the adopter. Therefore adoption is not the taking of someone as a child.

Obj. 3. Further, Adoption, whereby someone is taken as a child, is likened to natural procreation whereby a child is begotten naturally. Therefore whoever is competent to beget a child naturally is competent to adopt. But this is untrue, since neither one who is not his own master, nor

one who is not twenty-five years of age, nor a woman can adopt, and yet they can beget a child naturally. Therefore, properly speaking, adoption is not the taking of someone as a child.

Obj. 4. Further, To take as one's child one who is not one's own seems necessary in order to supply the lack of children begotten naturally. Now one who is unable to beget, through being a eunuch or impotent, suffers especially from the absence of children of his own begetting. Therefore he is especially competent to adopt someone as his child. But he is not competent to adopt. Therefore adoption is not the taking of someone as one's child.

Obj. 5. Further, In spiritual relationship, where someone is taken as a child without carnal procreation, it is of no consequence whether an older person become the father of a younger, or *vice versa*, since a youth can baptize an old man and *vice versa*. Therefore, if by adoption a person is taken as a child without being carnally begotten, it would make no difference whether an older person adopted a younger, or a younger an older person; which is not true. Therefore the same conclusion follows.

Obj. 6. Further, There is no difference of degree between adopted and adopter. Therefore whoever is adopted, is adopted as a child; and consequently it is not right to say that one may be adopted as a grandchild.

Obj. 7. Further, Adoption is a result of love, wherefore God is said to have adopted us as children through charity. Now we should have greater charity towards those who are connected with us than towards strangers. Therefore adoption should be not of a stranger but of someone connected with us.

I answer that, Art imitates nature and supplies the defect of nature where nature is deficient. Hence just as a man begets by natural procreation, so by positive law which is the art of what is good and just, one person can take to himself another as a child in likeness to one that is his child by nature, in order to take the place of the children he has lost, this being the chief reason why adoption was introduced.

And since taking implies a term *wherefrom*, for which reason the taker is not the thing taken, it follows that the person taken as a child must be a stranger. Accordingly, just as natural procreation has a term *whereto*, namely the form which is the end of generation, and a term *wherefrom*, namely the contrary form, so legal generation has a term *whereto*, namely a child or grandchild, and a term *wherefrom*, namely, a stranger. Consequently the above definition includes the genus of adoption, for it is described as a *lawful taking*, and the term *wherefrom*, since it is said to be the taking of *a stranger*, and the term *whereto*, because it says, *as a child or grandchild*.

Reply Obj. 1. The sonship of adoption is an imitation of natural sonship. Wherefore there are two species of adoption, one which imitates natural sonship perfectly, and this is called *arrogatio*, whereby the person adopted is placed under the power of the adopter; and one who is thus adopted inherits from his adopted father if the latter die intestate, nor can his father legally deprive him of a fourth part of his inheritance. But no one can adopt in this way except one who is his own master, one namely who has no father or, if he has, is of age. There can be no adoption of this kind without the authority of the sovereign. The other kind of adoption imitates natural sonship imperfectly, and is called *simple adoption*, and by this the adopted does not come under the power of the adopter: so that it is a disposition to perfect adoption, rather than perfect adoption itself. In this way even one who is not his own master can adopt, without the consent of the sovereign and with the authority of a magistrate; and one who is thus adopted does not inherit the estate of the adopter, nor is the latter bound to bequeath to him any of his goods in his will, unless he will.

This suffices for the *Reply* to the *Second Objection*.

Reply Obj. 3. Natural procreation is directed to the production of the species; wherefore anyone in whom the specific nature is not hindered is competent to be able to beget naturally. But adoption is directed to hereditary succession, wherefore those alone are competent to adopt

who have the power to dispose of their estate. Consequently one who is not his own master, or who is less than twenty-five years of age, or a woman, cannot adopt anyone, except by special permission of the sovereign.

Reply Obj. 4. An inheritance cannot pass to posterity through one who has a perpetual impediment from begetting: hence for this very reason it ought to pass to those who ought to succeed to him by right of relationship; and consequently he cannot adopt, as neither can he beget. Moreover greater is sorrow for children lost than for children one has never had. Wherefore those who are impeded from begetting need no solace for their lack of children, as those who have had and have lost them, or could have had them but have them not by reason of some accidental impediment.

Reply Obj. 5. Spiritual relationship is contracted through a sacrament whereby the faithful are born again in Christ, in Whom there is no difference between male and female, bondman and free, youth and old age (Gal. iii. 28; Col. iii. 11). Wherefore anyone can indifferently become another's godfather. But adoption aims at hereditary succession and a certain subjection of the adopted to the adopter: and it is not fitting that older persons should be subjected to younger in the care of the household. Consequently a younger person cannot adopt an older; but according to law the adopted person must be so much younger than the adopter, that he might have been the child of his natural begetting.

Reply Obj. 6. One may lose one's grandchildren and so forth even as one may lose one's children. Wherefore since adoption was introduced as a solace for children lost, just as someone may be adopted in place of a child, so may someone be adopted in place of a grandchild and so on.

Reply Obj. 7. A relative ought to succeed by right of relationship; and therefore such a person is not competent to be chosen to succeed by adoption. And if a relative, who is not competent to inherit the estate, be adopted, he is adopted not as a relative, but as a stranger lacking the right of succeeding to the adopter's goods.

SECOND ARTICLE.

WHETHER A TIE THAT IS AN IMPEDIMENT TO MARRIAGE IS CONTRACTED THROUGH ADOPTION?

We proceed thus to the Second Article:—

Objection 1. It would seem that there is not contracted through adoption a tie that is an impediment to marriage. For spiritual care is more excellent than corporal care. But no tie of relationship is contracted through one's being subjected to another's spiritual care: else all those who dwell in the parish would be related to the parish priest and would be unable to marry his son. Neither therefore can this result from adoption which places the adopted under the care of the adopter.

Obj. 2. Further, No tie of relationship results from persons conferring a benefit on another. But adoption is nothing but the conferring of a benefit. Therefore no tie of relationship results from adoption.

Obj. 3. Further, A natural father provides for his child chiefly in three things, as the Philosopher states (*Ethic.* viii. 11, 12): namely by giving him being, nourishment and education; and hereditary succession is subsequent to these. Now no tie of relationship is contracted by one's providing for a person's nourishment and education, else a person would be related to his nourishers, tutors and masters, which is false. Therefore neither is any relationship contracted through adoption by which one inherits another's estate.

Obj. 4. Further, The sacraments of the Church are not subject to human laws. Now marriage is a sacrament of the Church. Since then adoption was introduced by human law, it would seem that a tie contracted from adoption cannot be an impediment to marriage.

On the contrary, Relationship is an impediment to marriage. Now a kind of relationship results from adoption, namely legal relationship, as evidenced by its definition, for *legal relationship is a connexion arising out of adoption.* Therefore adoption results in a tie which is an impediment to marriage.

Further, The same is proved by the authorities quoted in the text (iv. *Sent.* D. 42.).

I answer that, The Divine law especially forbids marriage between those persons who have to live together lest, as Rabbi Moses observes (*Dux Errant.* iii.), if it were lawful for them to have carnal intercourse, there should be more room for concupiscence to the repression of which marriage is directed. And since the adopted child dwells in the house of his adopted father like one that is begotten naturally, human laws forbid the contracting of marriage between the like, and this prohibition is approved by the Church. Hence it is that legal adoption is an impediment to marriage. This suffices for the *Replies* to the first three *Objections*, because none of those things entails such a cohabitation as might be an incentive to concupiscence. Therefore they do not cause a relationship that is an impediment to marriage.

Reply Obj. 4. The prohibition of a human law would not suffice to make an impediment to marriage, unless the authority of the Church intervenes by issuing the same prohibition.

Third Article.

Whether legal relationship is contracted only between the adopting father and the adopted child?

We proceed thus to the Third Article:—

Objection 1. It would seem that a relationship of this kind is contracted only between the adopting father and the adopted child. For it would seem that it ought above all to be contracted between the adopting father and the natural mother of the adopted, as happens in spiritual relationship. Yet there is no legal relationship between them. Therefore it is not contracted between any other persons besides the adopter and adopted.

Obj. 2. Further, The relationship that impedes marriage is a perpetual impediment. But there is not a perpetual impediment between the adopted son and the naturally

begotten daughter of the adopted; because when the adoption terminates at the death of the adopter, or when the adopted comes of age, the latter can marry her. Therefore he was not related to her in such a way as to prevent him from marrying her.

Obj. 3. Further, Spiritual relationship passes to no person incapable of being a god-parent; wherefore it does not pass to one who is not baptized. Now a woman cannot adopt, as stated above (A. 1, *ad* 2). Therefore legal relationship does not pass from husband to wife.

Obj. 4. Further, Spiritual relationship is stronger than legal. But spiritual relationship does not pass to a grandchild. Neither, therefore, does legal relationship.

On the contrary, Legal relationship is more in agreement with carnal union or procreation than spiritual relationship is. But spiritual relationship passes to another person. Therefore legal relationship does so also.

Further, the same is proved by the authorities quoted in the text (iv. *Sent.* D. 42.).

I answer that, Legal relationship is of three kinds. The first is in the descending order as it were, and is contracted between the adoptive father and the adopted child, the latter's child, grandchild and so on; the second is between the adopted child and the naturally begotten child; the third is like a kind of affinity, and is between the adoptive father and the wife of the adopted son, or contrariwise between the adopted son andthe wife of the adoptive father. Accordingly the first and third relationships are perpetual impediments to marriage: but the second is not, but only so long as the adopted person remains under the power of the adoptive father, wherefore when the father dies or when the child comes of age, they can be married.

Reply Obj. 1. By spiritual generation the son is not withdrawn from the father's power, as in the case of adoption, so that the godson remains the son of both at the same time, whereas the adopted son does not. Hence no relationship is contracted between the adoptive father and the natural mother or father, as was the case in spiritual relationship.

Reply Obj. 2. Legal relationship is an impediment to marriage on account of the parties dwelling together: hence when the need for dwelling together ceases, it is not unreasonable that the aforesaid tie cease, for instance when he ceases to be under the power of the same father. But the adoptive father and his wife always retain a certain authority over their adopted son and his wife, wherefore the tie between them remains.

Reply Obj. 3. Even a woman can adopt by permission of the sovereign, wherefore legal relationship passes also to her. Moreover the reason why spiritual relationship does not pass to a non-baptized person is not because such a person cannot be a god-parent, but because he is not a fit subject of spirituality.

Reply Obj. 4. By spiritual relationship the son is not placed under the power and care of the godfather, as in legal relationship: because it is necessary that whatever is in the son's power pass under the power of the adoptive father. Wherefore if a father be adopted the children and grandchildren who are in the power of the person adopted are adopted also.

QUESTION LVIII.

OF THE IMPEDIMENTS OF IMPOTENCE, SPELL, FRENZY OR MADNESS, INCEST AND DEFECTIVE AGE.

(*In Five Articles.*)

We must now consider five impediments to marriage, namely the impediments of impotence, spell, frenzy or madness, incest, and defective age. Under this head there are five points of inquiry: (1) Whether impotence is an impediment to marriage? (2) Whether a spell is? (3) Whether frenzy or madness is? (4) Whether incest is? (5) Whether defective age is?

First Article.

WHETHER IMPOTENCE IS AN IMPEDIMENT TO MARRIAGE?

We proceed thus to the First Article:—

Objection 1. It would seem that impotence is not an impediment to marriage. For carnal copulation is not essential to marriage, since marriage is more perfect when both parties observe continency by vow. But impotence deprives marriage of nothing save carnal copulation. Therefore it is not a diriment impediment to the marriage contract.

Obj. 2. Further, Just as impotence prevents carnal copulation so does frigidity. But frigidity is not reckoned an impediment to marriage. Therefore neither should impotence be reckoned as such.

Obj. 3. Further, All old people are frigid. Yet old people can marry. Therefore, etc.

Obj. 4. Further, If the woman knows the man to be frigid when she marries him, the marriage is valid.

Therefore frigidity, considered in itself, is not an impediment to marriage.

Obj. 5. Further, Calidity may prove a sufficient incentive to carnal copulation with one who is not a virgin, but not with one who is, because it happens to be so weak as to pass away quickly, and is therefore insufficient for the deflowering of a virgin. Or again it may move a man sufficiently in regard to a beautiful woman, but insufficiently in regard to an uncomely one. Therefore it would seem that frigidity, although it be an impediment in regard to one, is not an impediment absolutely.

Obj. 6. Further, Generally speaking woman is more frigid than man. But women are not debarred from marriage. Neither therefore should men be debarred on account of frigidity.

On the contrary, It is stated (Extra., *De Frigidis et Malefic.*, cap. *Quod Sedem*): *Just as a boy who is incapable of marital intercourse is unfit to marry, so also those who are impotent are deemed most unfit for the marriage contract.* Now persons affected with frigidity are the like. Therefore, etc.

Further, No one can bind himself to the impossible. Now in marriage man binds himself to carnal copulation; because it is for this purpose that he gives the other party power over his body. Therefore a frigid person, being incapable of carnal copulation, cannot marry.

I answer that, In marriage there is a contract whereby one is bound to pay the other the marital debt: wherefore just as in other contracts, the bond is unfitting if a person bind himself to what he cannot give or do, so the marriage contract is unfitting, if it be made by one who cannot pay the marital debt. This impediment is called by the general name of impotence as regards coition, and can arise either from an intrinsic and natural cause, or from an extrinsic and accidental cause, for instance spell, of which we shall speak later (A. 2). If it be due to a natural cause, this may happen in two ways. For either it is temporary, and can be remedied by medicine, or by the course of time, and then it does not void a marriage: or it is perpetual and then it voids

marriage, so that the party who labours under this impediment remains for ever without hope of marriage, while the other may *marry to whom she will . . . in the Lord* (1 Cor. vii. 39). In order to ascertain whether the impediment be perpetual or not, the Church has appointed a fixed time, namely three years, for putting the matter to a practical proof: and if after three years, during which both parties have honestly endeavoured to fulfil their marital intercourse, the marriage remain unconsummated, the Church adjudges the marriage to be dissolved. And yet the Church is sometimes mistaken in this, because three years are sometimes insufficient to prove impotence to be perpetual. Wherefore if the Church find that she has been mistaken, seeing that the subject of the impediment has completed carnal copulation with another or with the same person, she reinstates the former marriage and dissolves the subsequent one, although the latter has been contracted with her permission.*

Reply Obj. 1. Although the act of carnal copulation is not essential to marriage, ability to fulfil the act is essential, because marriage gives each of the married parties power over the other's body in relation to marital intercourse.

Reply Obj. 2. Excessive calidity can scarcely be a perpetual impediment. If, however, it were to prove an impediment to marital intercourse for three years it would be adjudged to be perpetual. Nevertheless, since frigidity is a greater and more frequent impediment (for it not only hinders the mingling of seeds but also weakens the members which co-operate in the union of bodies), it is accounted an impediment rather than calidity, since all natural defects are reduced to frigidity.

Reply Obj. 3. Although old people have not sufficient calidity to procreate, they have sufficient to copulate. Wherefore they are allowed to marry, in so far as marriage is

* 'Nowadays it is seldom necessary to examine too closely into this matter, as all cases arising from it are treated as far as possible under the form of dispensations of non-consummated marriages' (Catholic Encyclopedia, art. *Canonical Impediments*).

intended as a remedy, although it does not befit them as fulfilling an office of nature.

Reply Obj. 4. In all contracts it is agreed on all hands that anyone who is unable to satisfy an obligation is unfit to make a contract which requires the fulfilling of that obligation. Now this inability is of two kinds. First, because a person is unable to fulfil the obligation *de jure*, and such inability renders the contract altogether void, whether the party with whom he contracts knows of this or not. Secondly, because he is unable to fulfil *de facto;* and then if the party with whom he contracts knows of this and, notwithstanding, enters the contract, this shows that the latter seeks some other end from the contract, and the contract stands. But if he does not know of it the contract is void. Consequently frigidity which causes such an impotence that a man cannot *de facto* pay the marriage debt, as also the condition of slavery, whereby a man cannot *de facto* give his service freely, are impediments to marriage, when the one married party does not know that the other is unable to pay the marriage debt. But an impediment whereby a person cannot pay the marriage debt *de jure*, for instance consanguinity, voids the marriage contract, whether the other party knows of it or not. For this reason the Master holds (iv. *Sent.* D. 34.) that these two impediments, frigidity and slavery, make it not altogether unlawful for their subjects to marry.

Reply Obj. 5. A man cannot have a perpetual natural impediment in regard to one person and not in regard to another. But if he cannot fulfil the carnal act with a virgin, while he can with one who is not a virgin, the hymeneal membrane may be broken by a medical instrument, and thus he may have connexion with her. Nor would this be contrary to nature, for it would be done not for pleasure but for a remedy. Dislike for a woman is not a natural cause, but an accidental extrinsic cause: and therefore we must form the same judgment in its regard as about spells, of which we shall speak further on (A. 2).

Reply Obj. 6. The male is the agent in procreation, and

the female is the patient, wherefore greater calidity is required in the male than in the female for the act of procreation. Hence the frigidity which renders the man impotent would not disable the woman. Yet there may be a natural impediment from another cause, namely stricture, and then we must judge of stricture in the woman in the same way as of frigidity in the man.

SECOND ARTICLE.

WHETHER A SPELL CAN BE AN IMPEDIMENT TO MARRIAGE?

We proceed thus to the Second Article :—

Objection 1. It would seem that a spell cannot be an impediment to marriage. For the spells in question are caused by the operation of demons. But the demons have no more power to prevent the marriage act than other bodily actions; and these they cannot prevent, for thus they would upset the whole world if they hindered eating and walking and the like. Therefore they cannot hinder marriage by spells.

Obj. 2. Further, God's work is stronger than the devil's. But a spell is the work of the devil. Therefore it cannot hinder marriage which is the work of God.

Obj. 3. Further, No impediment, unless it be perpetual, voids the marriage contract. But a spell cannot be a perpetual impediment, for since the devil has no power over others than sinners, the spell will be removed if the sin be cast out, or by another spell, or by the exorcisms of the Church which are employed for the repression of the demon's power. Therefore a spell cannot be an impediment to marriage.

Obj. 4. Further, Carnal copulation cannot be hindered, unless there be an impediment to the generative power which is its principle. But the generative power of one man is equally related to all women. Therefore a spell cannot be an impediment in respect of one woman without being so also in respect of all.

On the contrary, It is stated in the Decretals (XXXIII. qu. 1, cap. iv.): *If by sorcerers or witches . . .*, and further on, *if they be incurable, they must be separated.*

Further, The demons' power is greater than man's: *There is no power upon earth that can be compared with him who was made to fear no one* (Job xli. 24). Now through the action of man, a person may be rendered incapable of carnal copulation by some power or by castration; and this is an impediment to marriage. Therefore much more can this be done by the power of a demon.

I answer that, Some have asserted that witchcraft is nothing in the world but an imagining of men who ascribed to spells those natural effects the causes of which are hidden. But this is contrary to the authority of holy men who state that the demons have power over men's bodies and imaginations, when God allows them: wherefore by their means wizards can work certain signs. Now this opinion grows from the root of unbelief or incredulity, because they do not believe that demons exist save only in the imagination of the common people, who ascribe to the demon the terrors which a man conjures from his thoughts, and because, owing to a vivid imagination, certain shapes such as he has in his thoughts become apparent to the senses, and then he believes that he sees the demons. But such assertions are rejected by the true faith whereby we believe that angels fell from heaven, and that the demons exist, and that by reason of their subtle nature they are able to do many things which we cannot; and those who induce them to do such things are called wizards.

Wherefore others have maintained that witchcraft can set up an impediment to carnal copulation, but that no such impediment is perpetual: hence it does not void the marriage contract, and they say that the laws asserting this have been revoked. But this is contrary to actual facts and to the new legislation which agrees with the old.

We must therefore draw a distinction: for the inability to copulate caused by witchcraft is either perpetual and then it voids marriage, or it is not perpetual and then it does

not void marriage. And in order to put this to practical proof the Church has fixed the space of three years in the same way as we have stated with regard to frigidity (A. 1). There is, however, this difference between a spell and frigidity, that a person who is impotent through frigidity is equally impotent in relation to one as to another, and consequently when the marriage is dissolved, he is not permitted to marry another woman; whereas through witchcraft a man may be rendered impotent in relation to one woman and not to another, and consequently when the Church adjudges the marriage to be dissolved, each party is permitted to seek another partner in marriage.

Reply Obj. 1. The first corruption of sin whereby man became the slave of the devil was transmitted to us by the act of the generative power, and for this reason God allows the devil to exercise his power of witchcraft in this act more than in others. Even so the power of witchcraft is made manifest in serpents more than in other animals according to Gen. iii., since the devil tempted the woman through a serpent.

Reply Obj. 2. God's work may be hindered by the devil's work with God's permission; not that the devil is stronger than God so as to destroy His works by violence.

Reply Obj. 3. Some spells are so perpetual that they can have no human remedy, although God might afford a remedy by coercing the demon, or the demon by desisting. For, as wizards themselves admit, it does not always follow that what was done by one kind of witchcraft can be destroyed by another kind, and even though it were possible to use witchcraft as a remedy, it would nevertheless be reckoned to be perpetual, since nowise ought one to invoke the demon's help by witchcraft. Again, if the devil has been given power over a person on account of sin, it does not follow that his power ceases with the sin, because the punishment sometimes continues after the fault has been removed. And again, the exorcisms of the Church do not always avail to repress the demons in all their molestations of the body, if God will it so, but they always avail against

those assaults of the demons against which they are chiefly instituted.

Reply Obj. 4. Witchcraft sometimes causes an impediment in relation to all, sometimes in relation to one only: because the devil is a voluntary cause not acting from natural necessity. Moreover, the impediment resulting from witchcraft may result from an impression made by the demon on a man's imagination, whereby he is deprived of the concupiscence that moves him in regard to a particular woman and not to another.

Third Article.

whether madness is an impediment to marriage?

We proceed thus to the Third Article :—

Objection 1. It would seem that madness is not an impediment to marriage. For spiritual marriage which is contracted in Baptism is more excellent than carnal marriage. But mad persons can be baptized. Therefore they can also marry.

Obj. 2. Further, Frigidity is an impediment to marriage because it impedes carnal copulation, which is not impeded by madness. Therefore neither is marriage impeded thereby.

Obj. 3. Further, Marriage is not voided save by a perpetual impediment. But one cannot tell whether madness is a perpetual impediment. Therefore it does not void marriage.

Obj. 4. Further, The impediments that hinder marriage are sufficiently contained in the verses given above (Q. L.). But they contain no mention of madness. Therefore, etc.

On the contrary, Madness removes the use of reason more than error does. But error is an impediment to marriage. Therefore madness is also.

Further, Mad persons are not fit for making contracts. But marriage is a contract. Therefore, etc.

I answer that, The madness is either previous or subsequent to marriage. If subsequent, it nowise voids the marriage, but if it be previous, then the mad person either has lucid intervals, or not. If he has, then although it is not safe for

him to marry during that interval, since he would not know how to educate his children, yet if he marries, the marriage is valid. But if he has no lucid intervals, or marries outside a lucid interval, then, since there can be no consent without use of reason, the marriage will be invalid.

Reply Obj. 1. The use of reason is not necessary for Baptism as its cause, in which way it is necessary for matrimony. Hence the comparison fails. We have, however, spoken of the Baptism of mad persons (P. III., Q. LXVIII., A. 12).

Reply Obj. 2. Madness impedes marriage on the part of the latter's cause which is the consent, although not on the part of the act as frigidity does. Yet the Master treats of it together with frigidity, because both are defects of nature (iv. *Sent.* D. 34.).

Reply Obj. 3. A passing impediment which hinders the cause of marriage, namely the consent, voids marriage altogether. But an impediment that hinders the act must needs be perpetual in order to void the marriage.

Reply Obj. 4. This impediment is reducible to error, since in either case there is lack of consent on the part of the reason.

FOURTH ARTICLE.

WHETHER MARRIAGE IS ANNULLED BY THE HUSBAND COMMITTING INCEST WITH HIS WIFE'S SISTER?

We proceed thus to the Fourth Article :—

Objection 1. It would seem that marriage is not annulled by the husband committing incest with his wife's sister. For the wife should not be punished for her husband's sin. Yet she would be punished if the marriage were annulled. Therefore, etc.

Obj. 2. Further, It is a greater sin to know one's own relative, than to know the relative of one's wife. But the former sin is not an impediment to marriage. Therefore neither is the second.

Obj. 3. Further, If this is inflicted as a punishment of the sin, it would seem, if the incestuous husband marry even

after his wife's death, that they ought to be separated: which is not true.

Obj. 4. Further, this impediment is not mentioned among those enumerated above (Q. L.). Therefore it does not void the marriage contract.

On the contrary, By knowing his wife's sister he contracts affinity with his wife. But affinity voids the marriage contract. Therefore the aforesaid incest does also.

Further, By whatsoever a man sinneth, by the same also is he punished. Now such a man sins against marriage. Therefore he ought to be punished by being deprived of marriage.

I answer that, If a man has connexion with the sister or other relative of his wife before contracting marriage, even after his betrothal, the marriage should be broken off on account of the resultant affinity. If, however, the connexion take place after the marriage has been contracted and consummated, the marriage must not be altogether dissolved: but the husband loses his right to marital intercourse, nor can he demand it without sin. And yet he must grant it if asked, because the wife should not be punished for her husband's sin. But after the death of his wife he ought to remain without any hope of marriage, unless he receive a dispensation on account of his frailty, through fear of unlawful intercourse. If, however, he marry without a dispensation, he sins by contravening the law of the Church, but his marriage is not for this reason to be annulled. This suffices for the *Replies* to the *Objections,* for incest is accounted an impediment to marriage not so much for its being a sin as on account of the affinity which it causes. For this reason it is not mentioned with the other impediments, but is included in the impediment of affinity.

Fifth Article.

whether defective age is an impediment to marriage?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that deficient age is not an impediment to marriage. For according to the laws

children are under the care of a guardian until their twenty-fifth year. Therefore it would seem that before that age their reason is not sufficiently mature to give consent, and consequently that ought seemingly to be the age fixed for marrying. Yet marriage can be contracted before that age. Therefore lack of the appointed age is not an impediment to marriage.

Obj. 2. Further, Just as the tie of religion is perpetual so is the marriage tie. Now according to the new legislation (cap. *Non Solum,* De regular. et transeunt.) no one can be professed before the fourteenth year of age. Therefore neither could a person marry if defective age were an impediment.

Obj. 3. Further, Just as consent is necessary for marriage on the part of the man, so is it on the part of the woman. Now a woman can marry before the age of fourteen. Therefore a man can also.

Obj. 4. Further, Inability to copulate, unless it be perpetual and not known, is not an impediment to marriage. But lack of age is neither perpetual nor unknown. Therefore it is not an impediment to marriage.

Obj. 5. Further, It is not included under any of the aforesaid impediments (Q. L.), and consequently would seem not to be an impediment to marriage.

On the contrary, A Decretal (cap. *Quod Sedem,* De frigid. et malefic.) says that *a boy who is incapable of marriage intercourse is unfit to marry.* But in the majority of cases he cannot pay the marriage debt before the age of fourteen (*De Animal.* vii.). Therefore, etc.

Further, *There is a fixed limit of size and growth for all things based on nature* according to the Philosopher (*Anima.* ii. 41): and consequently it would seem that, since marriage is natural, it must have a fixed age by defect of which it is impeded.

I answer that, Since marriage is effected by way of a contract, it comes under the ordinance of positive law like other contracts. Consequently according to law (cap. *Tua,* De sponsal. impub.) it is determined that marriage may not be

contracted before the age of discretion when each party is capable of sufficient deliberation about marriage, and of mutual fulfilment of the marriage debt, and that marriages otherwise contracted are void. Now for the most part this age is the fourteenth year in males and the twelfth year in women: but since the ordinances of positive law are consequent upon what happens in the majority of cases, if anyone reach the required perfection before the aforesaid age, so that nature and reason are sufficiently developed to supply the lack of age, the marriage is not annulled. Wherefore if the parties who marry before the age of puberty have marital intercourse before the aforesaid age, their marriage is none the less perpetually indissoluble.

Reply Obj. 1. In matters to which nature inclines there is not required such a development of reason in order to deliberate, as in other matters: and therefore it is possible after deliberation to consent to marriage before one is able to manage one's own affairs in other matters without a guardian.

Reply Obj. 2. The same answer applies, since the religious vow is about matters outside the inclination of nature, and which offer greater difficulty than marriage.

Reply Obj. 3. It is said that woman comes to the age of puberty sooner than man does (*Animal.* vii.); hence there is no parallel between the two.

Reply Obj. 4. In this case there is an impediment not only as to inability to copulate, but also on account of the defect of the reason, which is not yet qualified to give rightly that consent which is to endure in perpetuity.

Reply Obj. 5. The impediment arising from defective age, like that which arises from madness, is reducible to the impediment of error; because a man has not yet the full use of his free-will.

QUESTION LIX.

OF DISPARITY OF WORSHIP AS AN IMPEDIMENT TO MARRIAGE.

(*In Six Articles.*)

We must now consider disparity of worship as an impediment to marriage. Under this head there are six points of inquiry: (1) Whether a believer can marry an unbeliever? (2) Whether there is marriage between unbelievers? (3) Whether a husband being converted to the faith can remain with his wife if she be unwilling to be converted? (4) Whether he may leave his unbelieving wife? (5) Whether after putting her away he may take another wife? (6) Whether a husband may put aside his wife on account of other sins as he may for unbelief?

First Article.

WHETHER A BELIEVER CAN MARRY AN UNBELIEVER?

We proceed thus to the First Article:—

Objection 1. It would seem that a believer can marry an unbeliever. For Joseph married an Egyptian woman, and Esther married Assuerus: and in both marriages there was disparity of worship, since one was an unbeliever and the other a believer. Therefore disparity of worship previous to marriage is not an impediment thereto.

Obj. 2. Further, The Old Law teaches the same faith as the New. But according to the Old Law there could be marriage between a believer and an unbeliever, as evidenced by Deut. xxi. 10 *seqq.*: *If thou go out to the fight . . . and seest in the number of the captives a beautiful woman and*

lovest her, and wilt have her to wife . . . thou shalt go in unto her, and shalt sleep with her, and she shall be thy wife. Therefore it is lawful also under the New Law.

Obj. 3. Further, Betrothal is directed to marriage. Now there can be a betrothal between a believer and an unbeliever in the case where a condition is made of the latter's future conversion. Therefore under the same condition there can be marriage between them.

Obj. 4. Further, Every impediment to marriage is in some way contrary to marriage. But unbelief is not contrary to marriage, since marriage fulfils an office of nature whose dictate faith surpasses. Therefore disparity of worship is not an impediment to marriage.

Obj. 5. Further, There is sometimes disparity of worship even between two persons who are baptized, for instance when, after Baptism, a person falls into heresy. Yet if such a person marry a believer, it is nevertheless a valid marriage. Therefore disparity of worship is not an impediment to marriage.

On the contrary, It is written (2 Cor. vi. 14): *What concord hath light with darkness?** Now there is the greatest concord between husband and wife. Therefore one who is in the light of faith cannot marry one who is in the darkness of unbelief.

Further, It is written (Mal. ii. 11): *Juda hath profaned the holiness of the Lord, which he loved, and hath married the daughter of a strange god.* But such had not been the case if they could have married validly. Therefore disparity of worship is an impediment to marriage.

I answer that, The chief good of marriage is the offspring to be brought up to the worship of God. Now since education is the work of father and mother in common, each of them intends to bring up the child to the worship of God according to their own faith. Consequently if they be of different faith, the intention of the one will be contrary to the intention of the other, and therefore there cannot be

* Vulg.,—*What fellowship hath light with darkness? And what concord hath Christ with Belial?*

a fitting marriage between them. For this reason disparity of faith previous to marriage is an impediment to the marriage contract.

Reply Obj. 1. In the Old Law it was allowable to marry with certain unbelievers, and forbidden with others. It was however especially forbidden with regard to inhabitants of the land of Canaan, both because the Lord had commanded them to be slain on account of their obstinacy, and because it was fraught with a greater danger, lest to wit they should pervert to idolatry those whom they married or their children, since the Israelites were more liable to adopt their rites and customs through dwelling among them. But it was permitted in regard to other unbelievers, especially when there could be no fear of their being drawn into idolatry. And thus Joseph, Moses, and Esther married unbelievers. But under the New Law which is spread throughout the whole world the prohibition extends with equal reason to all unbelievers. Hence disparity of worship previous to marriage is an impediment to its being contracted and voids the contract.

Reply Obj. 2. This law either refers to other nations with whom they could lawfully marry, or to the case when the captive woman was willing to be converted to the faith and worship of God.

Reply Obj. 3. Present is related to present in the same way as future to future. Wherefore just as when marriage is contracted in the present, unity of worship is required in both contracting parties, so in the case of a betrothal, which is a promise of future marriage, it suffices to add the condition of future unity of worship.

Reply Obj. 4. It has been made clear that disparity of worship is contrary to marriage in respect of its chief good, which is the good of the offspring.

Reply Obj. 5. Matrimony is a sacrament: and therefore so far as the sacramental essentials are concerned, it requires purity with regard to the sacrament of faith, namely Baptism, rather than with regard to interior faith. For which reason also this impediment is not called disparity

of faith, but disparity of worship which concerns outward service, as stated above (iii. *Sent.* D. 9, Q. I., A. 1., qu. 1). Consequently if a believer marry a baptized heretic, the marriage is valid, although he sins by marrying her if he knows her to be a heretic: even so he would sin were he to marry an excommunicate woman, and yet the marriage would not be void: whereas on the other hand if a catechumen having right faith but not having been baptized were to marry a baptized believer, the marriage would not be valid.

Second Article.

whether there can be marriage between unbelievers ?

We proceed thus to the Second Article:—

Objection 1. It would seem that there can be no marriage between unbelievers. For matrimony is a sacrament of the Church. Now Baptism is the door of the sacraments. Therefore unbelievers, since they are not baptized, cannot marry any more than they can receive other sacraments.

Obj. 2. Further, Two evils are a greater impediment to good than one. But the unbelief of only one party is an impediment to marriage. Much more, therefore, is the unbelief of both, and consequently there can be no marriage between unbelievers.

Obj. 3. Further, Just as there is disparity of worship between believer and unbeliever, so can there be between two unbelievers, for instance if one be a heathen and the other a Jew. Now disparity of worship is an impediment to marriage, as stated above (A. 1). Therefore there can be no valid marriage at least between unbelievers of different worship.

Obj. 4. Further, In marriage there is real chastity. But according to Augustine (*De Adult. Conjug.* i. 18; cf. iv. *Sent.* D. 39) there is no real chastity between an unbeliever and his wife. Neither therefore is there a true marriage.

Obj. 5. Further, True marriage excuses carnal intercourse from sin. But marriage contracted between unbelievers

cannot do this, since *the whole life of unbelievers is a sin,* as a gloss observes on Rom. xiv. 23, *All that is not of faith is sin.* Therefore there is no true marriage between unbelievers.

On the contrary, It is written (1 Cor. vii. 12): *If any brother hath a wife that believeth not, and she consent to dwell with him, let him not put her away.* But she is not called his wife except by reason of marriage. Therefore marriage between unbelievers is a true marriage.

Further, The removal of what comes after does not imply the removal of what comes first. Now marriage belongs to an office of nature, which precedes the state of grace, the principle of which is faith. Therefore unbelief does not prevent the existence of marriage between unbelievers.

I answer that, Marriage was instituted chiefly for the good of the offspring, not only as to its begetting,—since this can be effected even without marriage,—but also as to its advancement to a perfect state, because everything intends naturally to bring its effect to perfection. Now a twofold perfection is to be considered in the offspring. One is the perfection of nature, not only as regards the body but also as regards the soul, by those means which are of the natural law. The other is the perfection of grace: and the former perfection is material and imperfect in relation to the latter. Consequently, since those things which are for the sake of the end are proportionate to the end, the marriage that tends to the first perfection is imperfect and material in comparison with that which tends to the second perfection. And since the first perfection can be common to unbelievers and believers, while the second belongs only to believers, it follows that between unbelievers there is marriage indeed, but not perfected by its ultimate perfection as there is between believers.

Reply Obj. 1. Marriage was instituted not only as a sacrament, but also as an office of nature. And therefore, although marriage is not competent to unbelievers, as a sacrament dependent on the dispensation of the Church's ministers, it is nevertheless competent to them as fulfilling an office of nature. And yet even a marriage of this kind

is a sacrament after the manner of a habit, although it is not actually since they do not marry actually in the faith of the Church.

Reply Obj. 2. Disparity of worship is an impediment to marriage, not by reason of unbelief, but on account of the difference of faith. For disparity of worship hinders not only the second perfection of the offspring, but also the first, since the parents endeavour to draw their children in different directions, which is not the case when both are unbelievers.

Reply Obj. 3. As already stated (*ad* 1) there is marriage between unbelievers, in so far as marriage fulfils an office of nature. Now those things that pertain to the natural law are determinable by positive law; and therefore if any law among unbelievers forbid the contracting of marriage with unbelievers of a different rite, the disparity of worship will be an impediment to their intermarrying. They are not, however, forbidden by Divine law, because before God, however much one may stray from the faith, this makes no difference to one's being removed from grace: nor is it forbidden by any law of the Church who has not to judge of those who are without.

Reply Obj. 4. The chastity and other virtues of unbelievers are said not to be real, because they cannot attain the end of real virtue, which is real happiness. Thus we say it is not a real wine if it has not the effect of wine.

Reply Obj. 5. An unbeliever does not sin in having intercourse with his wife, if he pays her the marriage debt, for the good of the offspring, or for the troth whereby he is bound to her: since this is an act of justice and of temperance which observes the due circumstance in pleasure of touch; even as neither does he sin in performing acts of other civic virtues. Again, the reason why the whole life of unbelievers is said to be a sin is not that they sin in every act, but because they cannot be delivered from the bondage of sin by that which they do.

THIRD ARTICLE.

WHETHER THE HUSBAND, BEING CONVERTED TO THE FAITH, MAY REMAIN WITH HIS WIFE IF SHE BE UNWILLING TO BE CONVERTED?

We proceed thus to the Third Article :—

Objection 1. It would seem that when a husband is converted to the faith he cannot remain with his wife who believes not and is unwilling to be converted, and whom he had married while he was yet an unbeliever. For where the danger is the same one should take the same precautions. Now a believer is forbidden to marry an unbeliever for fear of being turned away from the faith. Since then if the believer remain with the unbeliever whom he had married previously, the danger is the same, in fact greater, for neophytes are more easily perverted than those who have been brought up in the faith, it would seem that a believer, after being converted, cannot remain with an unbeliever.

Obj. 2. Further, *An unbeliever cannot remain united to her who has been received into the Christian faith* (XXVIII. qu. 1 cap. *Judæi*). Therefore a believer is bound to put away a wife who does not believe.

Obj. 3. Further, A marriage contracted between believers is more perfect than one contracted between unbelievers. Now, if believers marry within the degrees forbidden by the Church, their marriage is void. Therefore the same applies to unbelievers, and thus a believing husband cannot remain with an unbelieving wife, at any rate, if as an unbeliever he married her within the forbidden degrees.

Obj. 4. Further, Sometimes an unbeliever has several wives recognized by his law. If, then, he can remain with those whom he married while yet an unbeliever, it would seem that even after his conversion he can retain several wives.

Obj. 5. Further, It may happen that after divorcing his first wife he has married a second, and that he is converted during this latter marriage. It would seem therefore that

at least in this case he cannot remain with this second wife.

On the contrary, The Apostle counsels him to remain (1 Cor. vii. 12).

Further, No impediment that supervenes upon a true marriage dissolves it. Now it was a true marriage when they were both unbelievers. Therefore when one of them is converted, the marriage is not annulled on that account; and thus it would seem that they may lawfully remain together.

I answer that, The faith of a married person does not dissolve but perfects the marriage. Wherefore, since there is true marriage between unbelievers, as stated above (A. 2, *ad* 1), the marriage tie is not broken by the fact that one of them is converted to the faith, but sometimes while the marriage tie remains, the marriage is dissolved as to cohabitation and marital intercourse, wherein unbelief and adultery are on a par, since both are against the good of the offspring. Consequently, the husband has the same power to put away an unbelieving wife or to remain with her, as he has to put away an adulterous wife or to remain with her. For an innocent husband is free to remain with an adulterous wife in the hope of her amendment, but not if she be obstinate in her sin of adultery, lest he seem to approve of her disgrace; although even if there be hope of her amendment he is free to put her away. In like manner the believer after his conversion may remain with the unbeliever in the hope of her conversion, if he see that she is not obstinate in her unbelief, and he does well in remaining with her, though not bound to do so: and this is what the Apostle counsels (*loc. cit.*).

Reply Obj. 1. It is easier to prevent a thing being done than to undo what is rightly done. Hence there are many things that impede the contracting of marriage if they precede it, which nevertheless cannot dissolve it if they follow it. Such is the case with affinity (Q. LV., A. 6): and it is the same with disparity of worship.

Reply Obj. 2. In the early Church at the time of the

apostles, both Jews and Gentiles were everywhere converted to the faith: and consequently the believing husband could then have a reasonable hope for his wife's conversion, even though she did not promise to be converted. Afterwards, however, as time went on the Jews became more obstinate than the Gentiles, because the Gentiles still continued to come to the faith, for instance, at the time of the martyrs, and at the time of Constantine and thereabouts. Wherefore it was not safe then for a believer to cohabit with an unbelieving Jewish wife, nor was there hope for her conversion as for that of a Gentile wife. Consequently, then, the believer could, after his conversion, cohabit with his wife if she were a Gentile, but not if she were a Jewess, unless she promised to be converted. This is the sense of that decree. Now, however, they are on a par, namely Gentiles and Jews, because both are obstinate; and therefore unless the unbelieving wife be willing to be converted, he is not allowed to cohabit with her, be she Gentile or Jew.

Reply Obj. 3. Non-baptized unbelievers are not bound by the laws of the Church, but they are bound by the ordinances of the Divine law. Hence unbelievers who have married within the degrees forbidden by the Divine law, whether both or one of them be converted to the faith, cannot continue in a like marriage. But if they have married within the degrees forbidden by a commandment of the Church, they can remain together if both be converted, or if one be converted and there be hope of the other's conversion.

Reply Obj. 4. To have several wives is contrary to the natural law by which even unbelievers are bound. Wherefore an unbeliever is not truly married save to her whom he married first. Consequently if he be converted with all his wives, he may remain with the first, and must put the others away. If, however, the first refuse to be converted, and one of the others be converted, he has the same right to marry her again as he would have to marry another. We shall treat of this matter further on (A. 5).

Reply Obj. 5. To divorce a wife is contrary to the law of nature, wherefore it is not lawful for an unbeliever to divorce

his wife. Hence if he be converted after divorcing one and marrying another, the same judgment is to be pronounced in this case as in the case of a man who had several wives, because if he wish to be converted he is bound to take the first whom he had divorced and to put the other away.

Fourth Article.

Whether a believer can, after his conversion, put away his unbelieving wife if she be willing to cohabit with him without insult to the Creator?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that a believer, after his conversion, cannot put away his unbelieving wife if she be willing to cohabit with him without insult to the Creator. For the husband is more bound to his wife than a slave to his master. But a converted slave is not freed from the bond of slavery, as appears from 1 Cor. vii. 21, 1 Tim. vi. 1. Therefore neither can a believing husband put away his unbelieving wife.

Obj. 2. Further, No one may act to another's prejudice without the latter's consent. Now the unbelieving wife had a right in the body of her unbelieving husband. If, then, her husband's conversion to the faith could be prejudicial to the wife, so that he would be free to put her away, the husband could not be converted to the faith without his wife's consent, even as he cannot receive Orders or vow continence without her consent.

Obj. 3. Further, If a man, whether slave or free, knowingly marry a bondwoman, he cannot put her away on account of her different condition. Since, then, the husband, when he married an unbeliever, knew that she was an unbeliever, it would seem that in like manner he cannot put her away on account of her unbelief.

Obj. 4. Further, A father is in duty bound to work for the salvation of his children. But if he were to leave his unbelieving wife, the children of their union would remain with the mother, because *the offspring follows the womb*, and

thus their salvation would be imperilled. Therefore he cannot lawfully put away his unbelieving wife.

Obj. 5. Further, An adulterous husband cannot put away an adulterous wife, even after he has done penance for his adultery. Therefore if an adulterous and an unbelieving husband are to be judged alike, neither can the believer put aside the unbeliever, even after his conversion to the faith.

On the contrary are the words of the Apostle (1 Cor. vii. 15, 16).

Further, Spiritual adultery is more grievous than carnal. But a man can put his wife away, as to cohabitation, on account of carnal adultery. Much more, therefore, can he do so on account of unbelief, which is spiritual adultery.

I answer that, Different things are competent and expedient to man according as his life is of one kind or of another. Wherefore he who dies to his former life is not bound to those things to which he was bound in his former life. Hence it is that he who vowed certain things while living in the world is not bound to fulfil them when he dies to the world by adopting the religious life. Now he who is baptized is regenerated in Christ and dies to his former life, since the generation of one thing is the corruption of another, and consequently he is freed from the obligation whereby he was bound to pay his wife the marriage debt, and is not bound to cohabit with her when she is unwilling to be converted, although in a certain case he is free to do so, as stated above (A. 3), just as a religious is free to fulfil the vows he took in the world, if they be not contrary to his religious profession, although he is not bound to do so.

Reply Obj. 1. Bondage is not inconsistent with the perfection of the Christian religion, which makes a very special profession of humility. But the obligation to a wife, or the conjugal bond, is somewhat derogatory to the perfection of Christian life, the highest state of which is in the possession of the continent: hence the comparison fails. Moreover one married party is not bound to the other as the latter's possession, as a slave to his master, but by way of a kind of partnership, which is unfitting between unbeliever and be-

liever as appears from 2 Cor. vi. 15; hence there is no comparison between a slave and a married person.

Reply Obj. 2. The wife had a right in the body of her husband only as long as he remained in the life wherein he had married, since also when the husband dies the wife *is delivered from the law of her husband* (Rom. vii. 3). Wherefore if the husband leave her after he has changed his life by dying to his former life, this is nowise prejudicial to her. Now he who goes over to the religious life dies but a spiritual death and not a bodily death. Wherefore if the marriage be consummated, the husband cannot enter religion without his wife's consent, whereas he can before carnal connexion when there is only a spiritual connexion. On the other hand, he who is baptized is even corporally buried together with Christ unto death; and therefore he is freed from paying the marriage debt even after the marriage has been consummated.

We may also reply that it is through her own fault in refusing to be converted that the wife suffers prejudice.

Reply Obj. 3. Disparity of worship makes a person simply unfit for lawful marriage, whereas the condition of bondage does not, but only where it is unknown. Hence there is no comparison between an unbeliever and a bondswoman.

Reply Obj. 4. Either the child has reached a perfect age, and then it is free to follow either the believing father or the unbelieving mother, or else it is under age, and then it should be given to the believer notwithstanding that it needs the mother's care for its education.

Reply Obj. 5. By doing penance the adulterer does not enter another life as an unbeliever by being baptized. Hence the comparison fails.

FIFTH ARTICLE.

WHETHER THE BELIEVER WHO LEAVES HIS UNBELIEVING WIFE CAN TAKE ANOTHER WIFE?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that the believer who leaves his unbelieving wife cannot take another wife. For indissolubility is of the nature of marriage, since it is contrary to the natural law to divorce one's wife. Now there was true marriage between them as unbelievers. Therefore their marriage can nowise be dissolved. But as long as a man is bound by marriage to one woman he cannot marry another. Therefore a believer who leaves his unbelieving wife cannot take another wife.

Obj. 2. Further, A crime subsequent to marriage does not dissolve the marriage. Now, if the wife be willing to cohabit without insult to the Creator, the marriage tie is not dissolved, since the husband cannot marry another. Therefore the sin of the wife who refuses to cohabit without insult to the Creator does not dissolve the marriage so that her husband be free to take another wife.

Obj. 3. Further, Husband and wife are equal in the marriage tie. Since, then, it is unlawful for the unbelieving wife to marry again while her husband lives, it would seem that neither can the believing husband do so.

Obj. 4. Further, The vow of continence is more favourable than the marriage contract. Now seemingly it is not lawful for the believing husband to take a vow of continence without the consent of his unbelieving wife, since then the latter would be deprived of marriage if she were afterwards converted. Much less therefore is it lawful for him to take another wife.

Obj. 5. Further, The son who persists in unbelief after his father's conversion loses the right to inherit from his father: and yet if he be afterwards converted, the inheritance is restored to him even though another should have entered into possession thereof. Therefore it would seem that in like manner, if the unbelieving wife be converted, her hus-

band ought to be restored to her even though he should have married another wife: yet this would be impossible if the second marriage were valid. Therefore he cannot take another wife.

On the contrary, Matrimony is not ratified without the sacrament of Baptism. Now what is not ratified can be annulled. Therefore marriage contracted in unbelief can be annulled, and consequently, the marriage tie being dissolved, it is lawful for the husband to take another wife.

Further, A husband ought not to cohabit with an unbelieving wife who refuses to cohabit without insult to the Creator. If therefore it were unlawful for him to take another wife he would be forced to remain continent, which would seem unreasonable, since then he would be at a disadvantage through his conversion.

I answer that, When either husband or wife is converted to the faith the other remaining in unbelief, a distinction must be made. For if the unbeliever be willing to cohabit without insult to the Creator—that is without drawing the other to unbelief—the believer is free to part from the other, but by parting is not permitted to marry again. But if the unbeliever refuse to cohabit without insult to the Creator, by making use of blasphemous words and refusing to hear Christ's name, then if she strive to draw him to unbelief, the believing husband after parting from her may be united to another in marriage.

Reply Obj. 1. As stated above (A. 2), the marriage of unbelievers is imperfect, whereas the marriage of believers is perfect and consequently binds more firmly. Now the firmer tie always looses the weaker if it is contrary to it, and therefore the subsequent marriage contracted in the faith of Christ dissolves the marriage previously contracted in unbelief. Therefore the marriage of unbelievers is not altogether firm and ratified, but is ratified afterwards by Christ's faith.

Reply Obj. 2. The sin of the wife who refuses to cohabit without insult to the Creator frees the husband from the tie whereby he was bound to his wife so as to be unable to

marry again during her lifetime. It does not however dissolve the marriage at once, since if she were converted from her blasphemy before he married again, her husband would be restored to her. But the marriage is dissolved by the second marriage which the believing husband would be unable to accomplish unless he were freed from his obligation to his wife by her own fault.

Reply Obj. 3. After the believer has married, the marriage tie is dissolved on either side, because the marriage is not imperfect as to the bond, although it is sometimes imperfect as to its effect. Hence it is in punishment of the unbelieving wife rather than by virtue of the previous marriage that she is forbidden to marry again. If however she be afterwards converted, she may be allowed by dispensation to take another husband, should her husband have taken another wife.

Reply Obj. 4. The husband ought not to take a vow of continence nor enter into a second marriage, if after his conversion there be a reasonable hope of the conversion of his wife, because the wife's conversion would be more difficult if she knew she was deprived of her husband. If however there be no hope of her conversion, he can take Holy Orders or enter religion, having first besought his wife to be converted. And then if the wife be converted after her husband has received Holy Orders, her husband must not be restored to her, but she must take it as a punishment of her tardy conversion that she is deprived of her husband.

Reply Obj. 5. The bond of fatherhood is not dissolved by disparity of worship, as the marriage bond is: wherefore there is no comparison between an inheritance and a wife.

SIXTH ARTICLE.

WHETHER OTHER SINS DISSOLVE MARRIAGE?

We proceed thus to the Sixth Article:—

Objection 1. It would seem that other sins besides unbelief dissolve marriage. For adultery is seemingly more directly opposed to marriage than unbelief is. But unbelief dissolves marriage in a certain case so that it is lawful to marry again. Therefore adultery has the same effect.

Obj. 2. Further, Just as unbelief is spiritual fornication, so is any kind of sin. If, then, unbelief dissolves marriage because it is spiritual fornication, for the same reason any kind of sin will dissolve marriage.

Obj. 3. Further, It is said (Matth. v. 30): *If thy right hand scandalize thee, pluck it off, and cast it from thee,* and a gloss of Jerome says that *by the hand and the right eye we may understand our brother, wife, relatives and children.* Now these become obstacles to us by any kind of sin. Therefore marriage can be dissolved on account of any kind of sin.

Obj. 4. Further, Covetousness is idolatry according to Eph. v. 5. Now a wife may be put away on account of idolatry. Therefore in like manner she can be put away on account of covetousness, as also on account of other sins graver than covetousness.

Obj. 5. Further, The Master says this expressly (iv. *Sent.* D. 30.).

On the contrary, It is said (Matth. v. 32): *Whosoever shall put away his wife, excepting for the cause of fornication, maketh her to commit adultery.*

Further, If this were true divorces would be made all day long, since it is rare to find a marriage wherein one of the parties does not fall into sin.

I answer that, Bodily fornication and unbelief have a special contrariety to the goods of marriage, as stated above (A. 3). Hence they are specially effective in dissolving marriages. Nevertheless it must be observed that marriage is dissolved in two ways. In one way as to the marriage tie, and thus marriage cannot be dissolved after it is ratified, neither by unbelief nor by adultery. But if it be not ratified, the tie is dissolved, if the one party remain in unbelief, and the other being converted to the faith has married again. On the other hand the aforesaid tie is not dissolved by adultery, else the unbeliever would be free to give a bill of divorce to his adulterous wife, and having put her away, could take another wife, which is false. In another way marriage is dissolved as to the act, and thus it can be dissolved on account of either unbelief or fornication. But marriage

cannot be dissolved even as to the act on account of other sins, unless perchance the husband wish to cease from intercourse with his wife in order to punish her by depriving her of the comfort of his presence.

Reply Obj. 1. Although adultery is opposed to marriage as fulfilling an office of nature, more directly than unbelief, it is the other way about if we consider marriage as a sacrament of the Church, from which source it derives perfect stability, inasmuch as it signifies the indissoluble union of Christ with the Church. Wherefore the marriage that is not ratified can be dissolved as to the marriage tie on account of unbelief rather than on account of adultery.

Reply Obj. 2. The primal union of the soul to God is by faith, and consequently the soul is thereby espoused to God as it were, according to Osee ii. 20, *I will espouse thee to Me in faith.* Hence in Holy Writ idolatry and unbelief are specially designated by the name of fornication: whereas other sins are called spiritual fornications by a more remote signification.

Reply Obj. 3. This applies to the case when the wife proves a notable occasion of sin to her husband, so that he has reason to fear his being in danger: for then the husband can withdraw from living with her, as stated above (A. 5).

Reply Obj. 4. Covetousness is said to be idolatry on account of a certain likeness of bondage, because both the covetous and the idolater serve the creature rather than the Creator; but not on account of likeness of unbelief, since unbelief corrupts the intellect whereas covetousness corrupts the affections.

Reply Obj. 5. The words of the Master refer to betrothal, because a betrothal can be rescinded on account of a subsequent crime. Or, if he is speaking of marriage, they must be referred to the severing of mutual companionship for a time, as stated above, or to the case when the wife is unwilling to cohabit except on the condition of sinning, for instance if she were to say: *I will not remain your wife unless you amass wealth for me by theft,* for then he ought to leave her rather than thieve.

QUESTION LX.

OF WIFE-MURDER.

(*In Two Articles.*)

WE must now consider wife-murder, under which head there are two points of inquiry: (1) Whether in a certain case it is lawful to kill one's wife? (2) Whether wife-murder is an impediment to marriage?

FIRST ARTICLE.

WHETHER IT IS LAWFUL FOR A MAN TO KILL HIS WIFE IF SHE BE DISCOVERED IN THE ACT OF ADULTERY?

We proceed thus to the First Article:—

Objection 1. It would seem lawful for a man to kill his wife if she be discovered in the act of adultery. For the Divine law commanded adulterous wives to be stoned. Now it is not a sin to fulfil the Divine law. Neither therefore is it a sin to kill one's own wife if she be an adulteress.

Obj. 2. Further, That which the law can rightly do, can be rightly done by one whom the law has commissioned to do it. But the law can rightly kill an adulterous wife or any other person deserving of death. Since then the law has commissioned the husband to kill his wife if she be discovered in the act of adultery, it would seem that he can rightly do so.

Obj. 3. Further, The husband has greater power over his adulterous wife than over the man who committed adultery with her. Now if the husband strike a cleric whom he found with his wife he is not excommunicated. Therefore

it would seem lawful for him even to kill his own wife if she be discovered in adultery.

Obj. 4. Further, The husband is bound to correct his wife. But correction is given by inflicting a just punishment. Since then the just punishment of adultery is death, because it is a capital sin, it would seem lawful for a husband to kill his adulterous wife.

On the contrary, It is stated in the text (iv. *Sent.* D. 37) that *the Church of God is never bound by the laws of this world, for she has none but a spiritual sword.* Therefore it would seem that he who wishes to belong to the Church cannot rightly take advantage of the law which permits a man to kill his wife.

Further, Husband and wife are judged on a par. But it is not lawful for a wife to kill her husband if he be discovered in adultery. Neither therefore may a husband kill his wife.

I answer that, It happens in two ways that a husband kills his wife. First, by a civil judgment; and thus there is no doubt that a husband, moved by zeal for justice and not by vindictive anger or hatred can, without sin, bring a criminal accusation of adultery upon his wife before a secular court, and demand that she receive capital punishment as appointed by the law; just as it is lawful to accuse a person of murder or any other crime. Such an accusation however cannot be made in an ecclesiastical court, because, as stated in the text (*loc. cit.*), the Church does not wield a material sword. Secondly, a husband can kill his wife himself without her being convicted in court, and thus to kill her outside of the act of adultery is not lawful, neither according to civil law nor according to the law of conscience, whatever evidence he may have of her adultery. The civil law however considers it, as though it were lawful, that he should kill her in the very act, not by commanding him to do so, but by not inflicting on him the punishment for murder, on account of the very great provocation which the husband receives by such a deed to kill his wife. But the Church is not bound in this matter by human laws, neither does she acquit him

of the debt of eternal punishment, nor of such punishment as may be awarded him by an ecclesiastical tribunal for the reason that he is quit of any punishment to be inflicted by a secular court. Therefore in no case is it lawful for a husband to kill his wife on his own authority.

Reply Obj. 1. The law has committed the infliction of this punishment not to private individuals, but to public persons, who are deputed to this by their office. Now the husband is not his wife's judge: wherefore he may not kill her, but may accuse her in the judge's presence.

Reply Obj. 2. The civil law has not commissioned the husband to kill his wife by commanding him to do so, for thus he would not sin, just as the judge's deputy does not sin by killing the thief condemned to death: but it has permitted this by not punishing it. For which reason it has raised certain obstacles to prevent the husband from killing his wife.

Reply Obj. 3. This does not prove that it is lawful simply, but that it is lawful as regards immunity from a particular kind of punishment, since excommunication is also a kind of punishment.

Reply Obj. 4. There are two kinds of community: the household, such as a family; and the civil community, such as a city or kingdom. Accordingly, he who presides over the latter kind of community, a king for instance, can punish an individual both by correcting and by exterminating him, for the betterment of the community with whose care he is charged. But he who presides over a community of the first kind, can inflict only corrective punishment, which does not extend beyond the limits of amendment, and these are exceeded by the punishment of death. Wherefore the husband who exercises this kind of control over his wife may not kill her, but he may accuse or chastise her in some other way.

SECOND ARTICLE.

WHETHER WIFE-MURDER IS AN IMPEDIMENT TO MARRIAGE?

We proceed thus to the Second Article :—

Objection 1. It would seem that wife-murder is not an impediment to marriage. For adultery is more directly opposed to marriage than murder is. Now adultery is not an impediment to marriage. Neither therefore is wife-murder.

Obj. 2. Further, It is a more grievous sin to kill one's mother than one's wife, for it is never lawful to strike one's mother, whereas it is sometimes lawful to strike one's wife. But matricide is not an impediment to marriage. Neither therefore is wife-murder.

Obj. 3. Further, It is a greater sin for a man to kill another man's wife on account of adultery than to kill his own wife, inasmuch as he has less motive and is less concerned with her correction. But he who kills another man's wife is not hindered from marrying. Neither therefore is he who kills his own wife.

Obj. 4. Further, If the cause be removed, the effect is removed. But the sin of murder can be removed by repentance. Therefore the consequent impediment to marriage can be removed also: and consequently it would seem that after he has done penance he is not forbidden to marry.

On the contrary, A canon (caus. xxxiii., qu. ii., cap. *Interfectores*) says: *The slayers of their own wives must be brought back to penance, and they are absolutely forbidden to marry.* Further, In whatsoever a man sins, in that same must he be punished. But he who kills his wife sins against marriage. Therefore he must be punished by being deprived of marriage.

I answer that, By the Church's decree wife-murder is an impediment to marriage. Sometimes however it forbids the contracting of marriage without voiding the contract, when to wit the husband kills his wife on account of adultery or even through hatred; nevertheless if there be fear lest he should prove incontinent, he may be dispensed by the Church so as to marry lawfully. Sometimes it also voids

the contract, as when a man kills his wife in order to marry her with whom he has committed adultery, for then the law declares him simply unfit to marry her, so that if he actually marry her his marriage is void. He is not however hereby rendered simply unfit by law in relation to other women: wherefore if he should have married another, although he sin by disobeying the Church's ordinance, the marriage is nevertheless not voided for this reason.

Reply Obj. 1. Murder and adultery in certain cases forbid the contracting of marriage and void the contract, as we say here in regard to wife-murder, and shall say further on (iv. *Sent.* Q. LXII., A. 2) in regard to adultery. We may also reply that wife-murder is contrary to the substance of wedlock, whereas adultery is contrary to the good of fidelity due to marriage. Hence adultery is not more opposed to marriage than wife-murder, and the argument is based on a false premiss.

Reply Obj. 2. Simply speaking it is a more grievous sin to kill one's mother than one's wife, as also more opposed to nature, since a man reveres his mother naturally. Consequently he is less inclined to matricide and more prone to wife-murder; and it is to repress this proneness that the Church has forbidden marriage to the man who has murdered his wife.

Reply Obj. 3. Such a man does not sin against marriage as he does who kills his own wife; wherefore the comparison fails.

Reply Obj. 4. It does not follow that because guilt has been remitted therefore the entire punishment is remitted, as evidenced by irregularity. For repentance does not restore a man to his former dignity, although it can restore him to his former state of grace, as stated above (Q. XXXVIII., A. 1, *ad* 3).

QUESTION LXI.

OF THE IMPEDIMENT TO MARRIAGE, ARISING FROM A SOLEMN VOW.

(*In Three Articles.*)

We must next consider the impediments which supervene to marriage. We shall consider (1) the impediment which affects an unconsummated marriage, namely a solemn vow: (2) the impediment which affects a consummated marriage, namely fornication. Under the first head there are three points of inquiry: (1) Whether either party after the marriage has been consummated can enter religion without the other's consent? (2) Whether they can enter religion before the consummation of the marriage? (3) Whether the wife can take another husband if her former husband has entered religion before the consummation of the marriage?

First Article.

WHETHER ONE PARTY AFTER THE MARRIAGE HAS BEEN CONSUMMATED CAN ENTER RELIGION WITHOUT THE OTHER'S CONSENT?

We proceed thus to the First Article:—

Objection 1. It would seem that even after the marriage has been consummated one consort can enter religion without the other's consent. For the Divine law ought to be more favourable to spiritual things than human law. Now human law has allowed this. Therefore much more should the Divine law permit it.

Obj. 2. Further, The lesser good does not hinder the greater. But the married state is a lesser good than the

religious state, according to 1 Cor. vii. 38. Therefore marriage ought not to hinder a man from being able to enter religion.

Obj. 3. Further, In every form of religious life there is a kind of spiritual marriage. Now it is lawful to pass from a less strict religious order to one that is stricter. Therefore it is also allowable to pass from a less strict—namely a carnal —marriage to a stricter marriage, namely that of the religious life, even without the wife's consent.

On the contrary, Married persons are forbidden (1 Cor. vii. 5) to abstain from the use of marriage even for a time without one another's consent, in order to have time for prayer.

Further, No one can lawfully do that which is prejudicial to another without the latter's consent. Now the religious vow taken by one consort is prejudicial to the other, since the one has power over the other's body. Therefore one of them cannot take a religious vow without the other's consent.

I answer that, No one can make an offering to God of what belongs to another. Wherefore since by a consummated marriage the husband's body already belongs to his wife, he cannot by a vow of continence offer it to God without her consent.

Reply Obj. 1. Human law considers marriage merely as fulfilling an office of nature: whereas the Divine law considers it as a sacrament, by reason of which it is altogether indissoluble. Hence the comparison fails.

Reply Obj. 2. It is not unreasonable that a greater good be hindered by a lesser which is contrary to it, just as good is hindered by evil.

Reply Obj. 3. In every form of religious life marriage is contracted with one person, namely Christ; to Whom, however, a person contracts more obligations in one religious order than in another. But in carnal marriage and religious marriage the contract is not with the same person: wherefore the comparison fails.

SECOND ARTICLE.

WHETHER BEFORE THE MARRIAGE HAS BEEN CONSUMMATED ONE CONSORT CAN ENTER RELIGION WITHOUT THE OTHER'S CONSENT?

We proceed thus to the Second Article:—

Objection 1. It would seem that even before the marriage has been consummated one consort cannot enter religion without the other's consent. For the indissolubility of marriage belongs to the sacrament of matrimony, inasmuch, namely, as it signifies the union of Christ with the Church. Now marriage is a true sacrament before its consummation, and after consent has been expressed in words of the present. Therefore it cannot be dissolved by one of them entering religion.

Obj. 2. Further, By virtue of the consent expressed in words of the present, the one consort has given power over his body to the other. Therefore the one can forthwith ask for the marriage debt, and the other is bound to pay: and so the one cannot enter religion without the other's consent.

Obj. 3. Further, It is said (Matth. xix. 6): *What God hath joined together let no man put asunder.* But the union which precedes marital intercourse was made by God. Therefore it cannot be dissolved by the will of man.

On the contrary, According to Jerome* our Lord called John from his wedding.

I answer that, Before marital intercourse there is only a spiritual bond between husband and wife, but afterwards there is a carnal bond between them. Wherefore, just as after marital intercourse marriage is dissolved by carnal death, so by entering religion the bond which exists before the consummation of the marriage is dissolved, because religious life is a kind of spiritual death, whereby a man dies to the world and lives to God.

Reply Obj. 1. Before consummation marriage signifies the union of Christ with the soul by grace, which is dissolved by a contrary spiritual disposition, namely mortal sin. But after

* *Prolog. in Joan.*

consummation it signifies the union of Christ with the Church, as regards the assumption of human nature into the unity of person, which union is altogether indissoluble.

Reply Obj. 2. Before consummation the body of one consort is not absolutely delivered into the power of the other, but conditionally, provided neither consort meanwhile seek the fruit of a better life. But by marital intercourse the aforesaid delivery is completed, because then each of them enters into bodily possession of the power transferred to him. Wherefore also before consummation they are not bound to pay the marriage debt forthwith after contracting marriage by words of the present, but a space of two months is allowed them for three reasons. First that they may deliberate meanwhile about entering religion; secondly, to prepare what is necessary for the solemnization of the wedding; thirdly, lest the husband think little of a gift he has not longed to possess (cap. *Institutum*, caus. xxvii., qu. ii.).

Reply Obj. 3. The marriage union, before consummation, is indeed perfect as to its primary being, but is not finally perfect as to its second act which is operation. It is like bodily possession and consequently is not altogether indissoluble.

Third Article.

Whether the wife may take another husband if her husband has entered religion before the consummation of the marriage?

We proceed thus to the Third Article :—

Objection 1. It would seem that the wife may not take another husband, if her husband has entered religion before the consummation of the marriage. For that which is consistent with marriage does not dissolve the marriage tie. Now the marriage tie still remains between those who equally take religious vows. Therefore by the fact that one enters religion, the other is not freed from the marriage tie. But as long as she remains tied to one by marriage, she cannot marry another. Therefore, etc.

Obj. 2. Further, After entering religion and before making his profession the husband can return to the world. If then the wife can marry again when her husband enters religion, he also can marry again when he returns to the world: which is absurd.

Obj. 3. Further, By a new decree (cap. *Non solum*, de regular. et transeunt.) a profession, if made before the expiry of a year, is accounted void. Therefore if he return to his wife after making such a profession, she is bound to receive him. Therefore neither by her husband's entry into religion, nor by his taking a vow, does the wife receive the power to marry again.

On the contrary, No one can bind another to those things which belong to perfection. Now continence is of those things that belong to perfection. Therefore a wife is not bound to continence on account of her husband entering religion, and consequently she can marry.

I answer that, Just as bodily death of the husband dissolves the marriage tie in such a way that the wife may marry whom she will, according to the statement of the Apostle (1 Cor. vii. 39); so too after the husband's spiritual death by entering religion, she can marry whom she will.

Reply Obj. 1. When both consorts take a like vow of continence, neither renounces the marriage tie, wherefore it still remains: but when only one takes the vow, then for his own part he renounces the marriage tie, wherefore the other is freed therefrom.

Reply Obj. 2. A person is not accounted dead to the world by entering religion until he makes his profession, and consequently his wife is bound to wait for him until that time.

Reply Obj. 3. We must judge of a profession thus made before the time fixed by law, as of a simple vow. Wherefore just as when the husband has taken a simple vow his wife is not bound to pay him the marriage debt, and yet has not the power to marry again, so is it in this case.

QUESTION LXII.

OF THE IMPEDIMENT THAT SUPERVENES TO MARRIAGE AFTER ITS CONSUMMATION, NAMELY FORNICATION.

(In Six Articles.)

We must now consider the impediment that supervenes upon marriage after its consummation, namely fornication, which is an impediment to a previous marriage as regards the act, although the marriage tie remains. Under this head there are six points of inquiry: (1) Whether it is lawful for a husband to put his wife away on account of fornication? (2) Whether he is bound to do so? (3) Whether he may put her away at his own judgment? (4) Whether in this matter husband and wife are of equal condition? (5) Whether, after being divorced, they must remain unmarried? (6) Whether they can be reconciled after being divorced?

First Article.

WHETHER IT IS LAWFUL FOR A HUSBAND TO PUT AWAY HIS WIFE ON ACCOUNT OF FORNICATION?

Objection 1. It would seem unlawful for a husband to put away his wife on account of fornication. For we must not return evil for evil. But the husband, by putting away his wife on account of fornication, seemingly returns evil for evil. Therefore this is not lawful.

Obj. 2. Further, The sin is greater if both commit fornication, than if one only commits it. But if both commit fornication, they cannot be divorced on that account. Neither therefore can they be, if only one commits fornication.

Obj. 3. Further, Spiritual fornication and certain other sins are more grievous than carnal fornication. But separation from bed cannot be motived by those sins. Neither therefore can it be done on account of fornication.

Obj. 4. Further, The unnatural vice is further removed from the marriage goods than fornication is, the manner of which is natural. Therefore it ought to have been a cause of separation rather than fornication.

On the contrary are the words of Matth. v. 32.

Further, One is not bound to keep faith with one who breaks his faith. But a spouse by fornication breaks the faith due to the other spouse. Therefore one can put the other away on account of fornication.

I answer that, Our Lord permitted a man to put away his wife on account of fornication, in punishment of the unfaithful party and in favour of the faithful party, so that the latter is not bound to marital intercourse with the unfaithful one. There are however seven cases to be excepted in which it is not lawful to put away a wife who has committed fornication, when either the wife is not to be blamed, or both parties are equally blameworthy. The first is if the husband also has committed fornication; the second is if he has prostituted his wife; the third is if the wife, believing her husband dead on account of his long absence, has married again; the fourth is if another man has fraudulently impersonated her husband in the marriage-bed; the fifth is if she be overcome by force; the sixth is if he has been reconciled to her by having carnal intercourse with her after she has committed adultery; the seventh is if both having been married in the state of unbelief, the husband has given his wife a bill of divorce and she has married again; for then if both be converted the husband is bound to receive her back again.

Reply Obj. 1. A husband sins if through vindictive anger he puts away his wife who has committed fornication, but he does not sin if he does so in order to avoid losing his good name, lest he seem to share in her guilt, or in order to correct his wife's sin, or in order to avoid the uncertainty of her offspring.

Reply Obj. 2. Divorce on account of fornication is effected by the one accusing the other. And since no one can accuse who is guilty of the same crime, a divorce cannot be pronounced when both have committed fornication, although marriage is more sinned against when both are guilty of fornication than when only one is.

Reply Obj. 3. Fornication is directly opposed to the good of marriage, since by it the certainty of offspring is destroyed, faith is broken, and marriage ceases to have its signification when the body of one spouse is given to several others. Wherefore other sins, though perhaps they be more grievous than fornication, are not motives for a divorce. Since, however, unbelief which is called spiritual fornication, is also opposed to the good of marriage consisting in the rearing of the offspring to the worship of God, it is also a motive for divorce, yet not in the same way as bodily fornication. Because one may take steps for procuring a divorce on account of one act of carnal fornication, not, however, on account of one act of unbelief, but on account of inveterate unbelief which is a proof of obstinacy wherein unbelief is perfected.

Reply Obj. 4. Steps may be taken to procure a divorce on account also of the unnatural vice: but this is not mentioned in the same way, both because it is an unmentionable passion, and because it does not so affect the certainty of offspring.

Second Article.

Whether the husband is bound by precept to put away his wife when she is guilty of fornication?

We proceed thus to the Second Article:—

Objection 1. It would seem that the husband is bound by precept to put away his wife who is guilty of fornication. For since the husband is the head of his wife, he is bound to correct his wife. Now separation from bed is prescribed as a correction of the wife who is guilty of fornication. Therefore he is bound to separate from her.

Obj. 2. Further, He who consents with one who sins

mortally, is also guilty of mortal sin. Now the husband who retains a wife guilty of fornication would seem to consent with her, as stated in the text (iv. *Sent.* D. 35.). Therefore he sins unless he puts her away.

Obj. 3. Further, It is written (1 Cor. vi. 16): *He who is joined to a harlot is made one body:* Now a man cannot at once be a member of a harlot and a member of Christ (*ibid.* 15). Therefore the husband who is joined to a wife guilty of fornication ceases to be a member of Christ, and therefore sins mortally.

Obj. 4. Further, Just as relationship voids the marriage tie, so does fornication dissolve the marriage-bed. Now after the husband becomes cognizant of his consanguinity with his wife, he sins mortally if he has carnal intercourse with her. Therefore he also sins mortally if he does so after knowing her to be guilty of fornication.

Obj. 5. *On the contrary,* A gloss on 1 Cor. vii. 11, *Let not the husband put away his wife,* says that *Our Lord permitted a wife to be put away on account of fornication.* Therefore it is not a matter of precept.

Obj. 6. Further, One can always pardon the sin that another has committed against oneself. Now the wife, by committing fornication, sinned against her husband. Therefore the husband may spare her by not putting her away.

I answer that, The putting away of a wife guilty of fornication was prescribed in order that the wife might be corrected by means of that punishment. Now a corrective punishment is not required when amendment has already taken place. Wherefore, if the wife repent of her sin, her husband is not bound to put her away: whereas if she repent not, he is bound to do so, lest he seem to consent to her sin, by not having recourse to her due correction.

Reply Obj. 1. The wife can be corrected for her sin of fornication not only by this punishment but also by words and blows; wherefore if she be ready to be corrected otherwise, her husband is not bound to have recourse to the aforesaid punishment in order to correct her.

Reply Obj. 2. The husband seems to consent with her

when he retains her, notwithstanding that she persists in her past sin: if, however, she has mended her ways, he does not consent with her.

Reply Obj. 3. She can no longer be called a harlot since she has repented of her sin. Wherefore her husband, by being joined to her, does not become a member of a harlot. We might also reply that he is joined to her not as a harlot but as his wife.

Reply Obj. 4. There is no parallel, because the effect of consanguinity is that there is no marriage tie between them, so that carnal intercourse between them becomes unlawful. Whereas fornication does not remove the said tie, so that the act remains, in itself, lawful, unless it become accidentally unlawful, in so far as the husband seems to consent to his wife's lewdness.

Reply Obj. 5. This permission is to be understood as an absence of prohibition: and thus it is not in contradistinction with a precept, for that which is a matter of precept is also not forbidden.

Reply Obj. 6. The wife sins not only against her husband, but also against herself and against God, wherefore her husband cannot entirely remit the punishment, unless amendment has followed.

Third Article.

Whether the husband can on his own judgment put away his wife on account of fornication?

We proceed thus to the Third Article:—

Objection 1. It would seem that the husband can on his own judgment put away his wife on account of fornication. For when sentence has been pronounced by the judge, it is lawful to carry it out without any further judgment. But God, the just Judge, has pronounced this judgment, that a husband may put his wife away on account of fornication. Therefore no further judgment is required for this.

Obj. 2. Further, It is stated (Matth. i. 19) that Joseph . . . being a just man . . . *was minded to put* Mary *away*

privately. Therefore it would seem that a husband may privately pronounce a divorce without the judgment of the Church.

Obj. 3. Further, If after becoming cognizant of his wife's fornication a husband has marital intercourse with his wife, he forfeits the action which he had against the adulteress. Therefore the refusal of the marriage debt, which pertains to a divorce, ought to precede the judgment of the Church.

Obj. 4. Further, That which cannot be proved ought not to be submitted to the judgment of the Church. Now the crime of fornication cannot be proved, since *the eye of the adulterer observeth darkness* (Job xxiv. 15). Therefore the divorce in question ought not to be made on the judgment of the Church.

Obj. 5. Further, Accusation should be preceded by inscription*, whereby a person binds himself under the pain of retaliation, if he fails to bring proof. But this is impossible in this matter, because then, in every event the husband would obtain his end, whether he put his wife away, or his wife put him away. Therefore she ought not to be summoned by accusation to receive the judgment of the Church.

Obj. 6. Further, A man is more bound to his wife than to a stranger. Now a man ought not to refer to the Church the crime of another, even though he be a stranger, without previously admonishing him privately (Matth. xviii. 15). Much less therefore may the husband bring his wife's crime before the Church, unless he has previously rebuked her in private.

On the contrary, No one should avenge himself. But if a husband were by his own judgment to put away his wife on account of fornication, he would avenge himself. Therefore this should not be done.

Further, No man is prosecutor and judge in the same cause. But the husband is the prosecutor by suing his wife for the offence she has committed against him. Therefore he cannot be the judge, and consequently he cannot put her away on his own judgment.

* Cf. footnote on II.-II., Q. XXXIII., A. 7.

I answer that, A husband can put away his wife in two ways. First as to bed only, and thus he may put her away on his own judgment, as soon as he has evidence of her fornication: nor is he bound to pay her the marriage debt at her demand, unless he be compelled by the Church, and by paying it thus he nowise prejudices his own case. Secondly, as to bed and board, and in this way she cannot be put away except at the judgment of the Church; and if she has been put away otherwise, he must be compelled to cohabit with her unless the husband can at once prove the wife's fornication. Now this putting away is called a divorce: and consequently it must be admitted that a divorce cannot be pronounced except at the judgment of the Church.

Reply Obj. 1. The sentence is an application of the general law to a particular fact. Wherefore God gave out the law according to which the sentence of the court has to be pronounced.

Reply Obj. 2. Joseph was minded to put away the Blessed Virgin not as suspected of fornication, but because in reverence for her sanctity, he feared to cohabit with her. Moreover there is no parallel, because then the sentence at law was not only divorce but also stoning, but not now when the case is brought to the Church for judgment. The *Reply* to the *Third Objection* is clear from what has been said.

Reply Obj. 4. Sometimes when the husband suspects his wife of adultery he watches her secretly that together with witnesses he may discover her in the sin of fornication, and so proceed to accusation. Moreover, if he has no evidence of the fact, there may be strong suspicions of fornication, which suspicions being proved the fornication seems to be proved: for instance if they be found together alone, at a time and place which are open to suspicion, or *nudus cum nuda.*

Reply Obj. 5. A husband may accuse his wife of adultery in two ways. First, he may seek a separation from bed before a spiritual judge, and then there is no need for an inscription to be made under the pain of retaliation, since thus the husband would gain his end, as the objection proves.

Secondly, he may seek for the crime to be punished in a secular court, and then it is necessary for inscription* to precede, whereby he binds himself under pain of retaliation if he fail to prove his case.

Reply Obj. 6. According to a Decretal (Extra. De Simonia, cap. *Licet*), *there are three modes of procedure in criminal cases. First, by inquisition, which should be preceded by notoriety; secondly, by accusation, which should be preceded by inscription;* thirdly, by denunciation, which should be preceded by fraternal correction.* Accordingly the saying of our Lord refers to the case where the process is by way of denunciation, and not by accusation, because then the end in view is not only the correction of the guilty party, but also his punishment, for the safeguarding of the common good, which would be destroyed if justice were lacking.

FOURTH ARTICLE.

WHETHER IN A CASE OF DIVORCE HUSBAND AND WIFE SHOULD BE JUDGED ON A PAR WITH EACH OTHER?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that, in a case of divorce, husband and wife ought not to be judged on a par with each other. For divorce under the New Law takes the place of the divorce (*repudium*) recognized by the Old Law (Matth. v. 31, 32). Now in the *repudium* husband and wife were not judged on a par with each other, since the husband could put away his wife, but not *vice versa*. Therefore neither in divorce ought they to be judged on a par with each other.

Obj. 2. Further, It is more opposed to the natural law that a wife have several husbands than that a husband have several wives: wherefore the latter has been sometimes lawful, but the former never. Therefore the wife sins more grievously in adultery than the husband, and consequently they ought not to be judged on a par with each other.

Obj. 3. Further, Where there is greater injury to one's

* Cf. footnote on II.-II., Q. XXXIII., A. 7.

neighbour, there is a greater sin. Now the adulterous wife does a greater injury to her husband, than does the adulterous husband to his wife, since a wife's adultery involves uncertainty of the offspring, whereas the husband's adultery does not. Therefore the wife's sin is the greater, and so they ought not to be judged on a par with each other.

Obj. 4. Further, Divorce is prescribed in order to punish the crime of adultery. Now it belongs to the husband who is the head of the wife (1 Cor. xi. 3) to correct his wife, rather than *vice versa*. Therefore they should not be judged on a par with each other for the purpose of divorce, but the husband ought to have the preference.

Obj. 5. *On the contrary,* It would seem that in this matter the wife ought to have the preference. For the more frail the sinner the more is his sin deserving of pardon. Now there is greater frailty in women than in men, for which reason Chrysostom* says that *lust is a passion proper to women* and the Philosopher says (*Ethic.* vii. 7) that *properly speaking women are not said to be continent on account of their being easily inclined to concupiscence,* for neither can dumb animals be continent, because they have nothing to stand in the way of their desires. Therefore women are rather to be spared in the punishment of divorce.

Obj. 6. Further, The husband is placed as the head of the woman in order to correct her. Therefore his sin is greater than the woman's, and so he should be punished the more.

I answer that, In a case of divorce husband and wife are judged on a par with each other, in the sense that the same things are lawful or unlawful to the one as to the other: but they are not judged on a par with each other in reference to those things, since the reason for divorce is greater in one spouse than in the other, although there is sufficient reason for divorce in both. For divorce is a punishment of adultery, in so far as it is opposed to the marriage goods. Now as regards the good of fidelity to which husband and wife are equally bound towards each other, the adultery of one is as

* *Hom.* xl. in the *Opus Imperfectum* falsely ascribed to S. John Chrysostom.

great a sin against marriage as the adultery of the other, and this is in either of them a sufficient reason for divorce. But as regards the good of the offspring the wife's adultery is a greater sin against marriage than the husband's, wherefore it is a greater reason for divorce in the wife than in the husband: and thus they are under an equal obligation, but not for equal reasons. Nor is this unjust, for on either hand there is sufficient reason for the punishment in question, just as there is in two persons condemned to the punishment of death, although one of them may have sinned more grievously than the other.

Reply Obj. 1. The only reason why divorce was permitted, was to avoid murder. And since there was more danger of this in men than in women, the husband was allowed to put away his wife by a bill of divorce, but not *vice versa*.

Reply Objs. 2 *and* 3. These arguments are based on the fact that in comparison with the good of the offspring there is more reason for divorce in an adulterous wife than in an adulterous husband. It does not follow, however, that they are not judged on a par with each other.

Reply Obj. 4. Although the husband is the head of the wife, he is her pilot as it were, and is no more her judge than she is his. Consequently in matters that have to be submitted to a judge, the husband has no more power over his wife, than she over him.

Reply Obj. 5. In adultery there is the same sinful character as in simple fornication, and something more which aggravates it, namely the lesion to marriage. Accordingly if we consider that which is common to adultery and fornication, the sin of the husband and that of the wife are compared the one to the other as that which exceeds to that which is exceeded, for in women the humours are more abundant, wherefore they are more inclined to be led by their concupiscences, whereas in man there is abundance of heat which excites concupiscence. Simply speaking, however, other things being equal, a man sins more grievously in simple fornication than a woman, because he has more of the good

of reason, which prevails over all movements of bodily passions. But as regards the lesion to marriage which adultery adds to fornication and for which reason it is an occasion for divorce, the woman sins more grievously than the man, as appears from what we have said above. And since it is more grievous than simple fornication, it follows that, simply speaking, the adulterous wife sins more grievously than the adulterous husband, other things being equal.

Reply Obj. 6. Although the control which the husband receives over his wife is an aggravating circumstance, nevertheless the sin is yet more aggravated by this circumstance which draws the sin to another species, namely by the lesion to marriage, which lesion becomes a kind of injustice, through the fraudulent substitution of another's child.

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FIFTH ARTICLE.

WHETHER A HUSBAND CAN MARRY AGAIN AFTER HAVING A DIVORCE?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that a husband can marry again after having a divorce. For no one is bound to perpetual continence. Now in some cases the husband is bound to put away his wife for ever on account of fornication, as stated above (A. 2). Therefore seemingly at least in this case he can marry again.

Obj. 2. Further, A sinner should not be given a greater occasion of sin. But if she who is put away on account of the sin of fornication is not allowed to seek another marriage, she is given a greater occasion of sin: for it is improbable that one who was not continent during marriage will be able to be continent afterwards. Therefore it would seem lawful for her to marry again.

Obj. 3. Further, The wife is not bound to the husband save as regards the payment of the marriage debt and cohabitation. But she is freed from both obligations by divorce. Therefore *she is loosed from the law of her husband.**

* Rom. vii. 2.

Therefore she can marry again; and the same applies to her husband.

Obj. 4. Further, It is said (Matth. xix. 9): *Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery.* Therefore seemingly he does not commit adultery if he marry again after putting away his wife on account of fornication, and consequently this will be a true marriage.

On the contrary, It is written (1 Cor. vii. 10, 11): *Not I, but the Lord, commandeth that the wife depart not from her husband; and, if she depart, that she remain unmarried.*

Further, No one should gain advantage from sin. But the adulteress would if she were allowed to contract another and more desired marriage; and an occasion of adultery would be afforded those who wish to marry again. Therefore it is unlawful both to the wife and to the husband to contract a second marriage.

I answer that, Nothing supervenient to marriage can dissolve it: wherefore adultery does not make a marriage cease to be valid. For, according to Augustine (*De Nup. et Concup.* i. 10), *as long as they live they are bound by the marriage tie, which neither divorce nor union with another can destroy.* Therefore it is unlawful for one, while the other lives, to marry again.

Reply Obj. 1. Although no one is absolutely bound to continence, he may be bound accidentally; for instance, if his wife contract an incurable disease that is incompatible with carnal intercourse. And it is the same if she labour under a spiritual disease, namely fornication, so as to be incorrigible.

Reply Obj. 2. The very shame of having been divorced ought to keep her from sin: and if it cannot keep her from sin, it is a lesser evil that she alone sin than that her husband take part in her sin.

Reply Obj. 3. Although after divorce the wife is not bound to her husband as regards paying him the marriage debt and cohabiting with him, the marriage tie, whereby she was bound to this, remains, and consequently she cannot

marry again during her husband's lifetime. She can, however, take a vow of continence, against her husband's will, unless it seem that the Church has been deceived by false witnesses in pronouncing the divorce; for in that case, even if she has made her vow of profession she ought to be restored to her husband, and would be bound to pay the marriage debt, but it would be unlawful for her to demand it.

Reply Obj. 4. The exception expressed in our Lord's words refers to the putting away of the wife. Hence the objection is based on a false interpretation.

Sixth Article.

Whether husband and wife may be reconciled after being divorced?

We proceed thus to the Sixth Article:—

Objection 1. It would seem that husband and wife may not be reconciled after being divorced. For the law contains the rule (l. v. ff. De decretis ab ord. faciend.): *That which has been once well decided must not be subsequently withdrawn.* Now it has been decided by the judgment of the Church that they ought to be separated. Therefore they cannot subsequently be reconciled.

Obj. 2. Further, If it were allowable for them to be reconciled, the husband would seem bound to receive his wife, especially after she has repented. But he is not bound, for the wife, in defending herself before the judge, cannot allege her repentance against her husband's accusation of fornication. Therefore in no way is reconciliation allowable.

Obj. 3. Further, If reconciliation were allowable, it would seem that the adulterous wife is bound to return to her husband if her husband asks her. But she is not bound, since they are separated by the Church. Therefore, etc.

Obj. 4. Further, If it were lawful to be reconciled to an adulterous wife, this would especially be the case when the husband is found to have committed adultery after the divorce. But in this case the wife cannot compel him to be

reconciled, since the divorce has been justly pronounced. Therefore she may nowise be reconciled.

Obj. 5. Further, If a husband whose adultery is unknown put away his wife, who is convicted of adultery by the sentence of the Church, the divorce would seem to have been pronounced unjustly. And yet the husband is not bound to be reconciled to his wife, because she is unable to prove his adultery in court. Much less, therefore, is reconciliation allowable when the divorce has been granted justly.

On the contrary, It is written (1 Cor. vii. 11): *And if she depart, that she remain unmarried, or be reconciled to her husband.*

Further, It is allowable for the husband not to put her away after fornication. Therefore, for the same reason, he can be reconciled to her after divorce.

I answer that, If the wife has mended her ways by repenting of her sin after the divorce, her husband may become reconciled to her; but if she remain incorrigible in her sin, he must not take her back, for the same reason which forbade him to retain her while she refused to desist from sin.

Reply Obj. 1. The sentence of the Church in pronouncing the divorce did not bind them to separate, but allowed them to do so. Therefore reconciliation may be effected or ensue without any withdrawal of the previous sentence.

Reply Obj. 2. The wife's repentance should induce the husband not to accuse or put away the wife who is guilty of fornication. He cannot, however, be compelled to this course of action, nor can his wife oppose her repentance to his accusation, because although she is no longer guilty, neither in act nor in the stain of sin, there still remains something of the debt of punishment, and though this has been taken away in the sight of God, there still remains the debt of punishment to be inflicted by the judgment of man, because man sees not the heart as God does.

Reply Obj. 3. That which is done in a person's favour does him no prejudice. Wherefore since the divorce has been granted in favour of the husband, it does not deprive him of the right of asking for the marriage debt, or of asking his

wife to return to him. Hence his wife is bound to pay the debt, and to return to him, if he ask her, unless with his consent she has taken a vow of continence.

Reply Obj. 4. According to strict law, a husband who was previously innocent should not be compelled to receive an adulterous wife on account of his having committed adultery after the divorce. But according to equity, the judge is bound by virtue of his office first of all to admonish him to beware of imperilling his own soul and of scandalizing others; although the wife may not herself seek reconciliation.

Reply Obj. 5. If the husband's adultery is secret, this does not deprive his adulterous wife of the right to allege it in self-defence, although she cannot prove it. Wherefore the husband sins by seeking a divorce, and if, after the sentence of divorce, his wife asks for the marriage debt or for a reconciliation, the husband is bound to both.

QUESTION LXIII.

OF SECOND MARRIAGES.

(*In Two Articles.*)

In the next place we must consider second marriage. Under this head there are two points of inquiry: (1) Whether it is lawful? (2) Whether it is a sacrament?

First Article.

WHETHER A SECOND MARRIAGE IS LAWFUL?

We proceed thus to the First Article:—

Objection 1. It would seem that a second marriage is unlawful. Because we should judge of things according to truth. Now Chrysostom* says that *to take a second husband is in truth fornication,* which is unlawful. Therefore neither is a second marriage lawful.

Obj. 2. Further, Whatever is not good is unlawful. Now Ambrose† says that a second marriage is not good. Therefore it is unlawful.

Obj. 3. Further, No one should be debarred from being present at such things as are becoming and lawful. Yet priests are debarred from being present at second marriages, as stated in the text (iv. *Sent.* D. 42.). Therefore they are unlawful.

Obj. 4. Further, No one incurs a penalty save for sin. Now a person incurs the penalty of irregularity on account of being married twice. Therefore a second marriage is unlawful.

* *Hom.* xxxii. in the *Opus Imperfectum* falsely ascribed to S. John Chrysostom.

† On 1 Cor. vii. 40, and *De Viduis.*

On the contrary, We read of Abraham having contracted a second marriage (Gen. xxv. 1).

Further, The Apostle says (1 Tim. v. 14): *I will . . . that the younger,* namely widows, *should marry, bear children.* Therefore second marriages are lawful.

I answer that, The marriage tie lasts only until death (Rom. vii. 2), wherefore at the death of either spouse the marriage tie ceases: and consequently when one dies the other is not hindered from marrying a second time on account of the previous marriage. Therefore not only second marriages are lawful, but even third and so on.

Reply Obj. 1. Chrysostom is speaking in reference to the cause which is wont at times to incite a person to a second marriage, namely concupiscence which incites also to fornication.

Reply Obj. 2. A second marriage is stated not to be good, not that it is unlawful, but because it lacks the honour of the signification which is in a first marriage, where one husband has one wife, as in the case of Christ and the Church.

Reply Obj. 3. Men who are consecrated to Divine things are debarred not only from unlawful things, but even from things which have any appearance of turpitude; and consequently they are debarred from second marriages, which lack the decorum which was in a first marriage.

Reply Obj. 4. Irregularity is not always incurred on account of a sin, and may be incurred through a defect in a sacrament.* Hence the argument is not to the point.

Second Article.

whether a second marriage is a sacrament?

We proceed thus to the Second Article:—

Objection 1. It would seem that a second marriage is not a sacrament. For he who repeats a sacrament injures the sacrament. But no sacrament should be done an injury.

* *Defectus sacramenti,* i.e. defect of signification. Cf. A. 2, *Obj.* 3.

Therefore if a second marriage were a sacrament, marriage ought nowise to be repeated.

Obj. 2. Further, In every sacrament some kind of blessing is given. But no blessing is given in a second marriage, as stated in the text (iv. *Sent.* D. 42.). Therefore no sacrament is conferred therein.

Obj. 3. Further, Signification is essential to a sacrament. But the signification of marriage is not preserved in a second marriage, because there is not a union of only one woman with only one man, as in the case of Christ and the Church. Therefore it is not a sacrament.

Obj. 4. Further, One sacrament is not an impediment to receiving another. But a second marriage is an impediment to receiving Orders. Therefore it is not a sacrament.

On the contrary, Marital intercourse is excused from sin in a second marriage even as in a first marriage. Now marital intercourse is excused* by the marriage goods which are fidelity, offspring, and sacrament. Therefore a second marriage is a sacrament.

Further, Irregularity is not contracted through a second and non-sacramental union, such as fornication. Yet irregularity is contracted through a second marriage. Therefore it is a sacramental union.

I answer that, Wherever we find the essentials of a sacrament, there is a true sacrament. Wherefore, since in a second marriage we find all the essentials of the sacrament of marriage (namely the due matter—which results from the parties having the conditions prescribed by law—and the due form, which is the expression of the inward consent by words of the present), it is clear that a second marriage is a sacrament even as a first.

Reply Obj. 1. This is true of a sacrament which causes an everlasting effect: for then, if the sacrament be repeated, it is implied that the first was not effective, and thus an injury is done to the first, as is clear in all those sacraments which imprint a character. But those sacraments which have not an everlasting effect can be repeated without injury to

* *Supra,* Q. XLIX., A. 1.

the sacrament, as in the case of Penance. And, since the marriage tie ceases with death, no injury is done to the sacrament if a woman marry again after her husband's death.

Reply Obj. 2. Although the second marriage, considered in itself, is a perfect sacrament, yet if we consider it in relation to the first marriage, it is somewhat a defective sacrament, because it has not its full signification, since there is not a union of only one woman with only one man as in the marriage of Christ with the Church. And on account of this defect the blessing is omitted in a second marriage. This, however, refers to the case when it is a second marriage on the part of both man and woman, or on the part of the woman only. For if a virgin marry a man who has had another wife, the marriage is blessed nevertheless. Because the signification is preserved to a certain extent even in relation to the former marriage, since though Christ has but one Church for His spouse, there are many persons espoused to Him in the one Church. But the soul cannot be espoused to another besides Christ, else it commits fornication with the devil. Nor is there a spiritual marriage. For this reason when a woman marries a second time the marriage is not blessed on account of the defect in the sacrament.

Reply Obj. 3. The perfect signification is found in a second marriage considered in itself, not however if it be considered in relation to the previous marriage, and it is thus that it is a defective sacrament.

Reply Obj. 4. A second marriage in so far as there is a defect in the sacrament, but not as a sacrament, is an impediment to the sacrament of Order.

QUESTION LXIV.

OF THE THINGS ANNEXED TO MARRIAGE, AND FIRST OF THE PAYMENT OF THE MARRIAGE DEBT.

(*In Seven Articles.*)

In the next place we must consider those things which are annexed to marriage: (1) the payment of the marriage debt; (2) plurality of wives; (3) bigamy; (4) the bill of divorce; (5) illegitimate children.

Under the first head there are ten points of inquiry: (1) Whether one spouse is bound to pay the marriage debt to the other? (2) Whether one is sometimes bound to pay without being asked? (3) Whether a wife may demand the debt during the menses? (4) Whether she is bound to pay it at that time? (5) Whether husband and wife are equal in this matter? (6) Whether the one without the other's consent may take a vow that prohibits the payment of the debt? (7) Whether it is forbidden to ask for the debt at any particular time? (8) Whether it is a mortal sin to ask for it at a holy time? (9) Whether it is an obligation to pay it at the time of a festival? (10) Whether weddings should be forbidden at certain times?

First Article.

WHETHER HUSBAND AND WIFE ARE MUTUALLY BOUND TO THE PAYMENT OF THE MARRIAGE DEBT?

We proceed thus to the First Article:—

Objection 1. It would seem that husband and wife are not mutually bound, under the obligation of a precept, to the payment of the marriage debt. For no one is forbidden

to receive the Eucharist on account of fulfilling a precept. Yet he who has had intercourse with his wife cannot partake of the flesh of the Lamb according to Jerome* quoted in the text (iv. *Sent.* D. 32). Therefore the payment of the debt does not come under the obligation of a precept.

Obj. 2. Further, It is lawful to everyone to abstain from what is hurtful to his person. But it is sometimes harmful to a person to pay the debt when asked, whether on account of sickness, or because they have already paid it. Therefore it would seem allowable to refuse the one who asks.

Obj. 3. Further, It is a sin to render oneself unfit to fulfil an obligation of precept. If, therefore, the payment of the debt comes under the obligation of a precept, it would seem sinful to render oneself unfit for paying the debt, by fasting or otherwise weakening the body: but apparently this is untrue.

Obj. 4. Further, According to the Philosopher (*Ethic.* viii. 12), marriage is directed to the begetting and rearing of children, as well as to the community of life. Now leprosy is opposed to both these ends of marriage, for since it is a contagious disease, the wife is not bound to cohabit with a leprous husband; and besides this disease is often transmitted to the offspring. Therefore it would seem that a wife is not bound to pay the debt to a leprous husband.

On the contrary, As the slave is in the power of his master, so is one spouse in the power of the other (1 Cor. vii. 4). But a slave is bound by an obligation of precept to pay his master the debt of his service according to Rom. xiii. 7, *Render . . . to all men their dues, tribute to whom tribute is due,* etc. Therefore husband and wife are mutually bound to the payment of the marriage debt.

Further, Marriage is directed to the avoiding of fornication (1 Cor. vii. 2). But this could not be the effect of marriage, if the one were not bound to pay the debt to the other when the latter is troubled with concupiscence. Therefore the payment of the debt is an obligation of precept.

I answer that, Marriage was instituted especially as ful-

* *Serm. de Esu Agni,* viii.

filling an office of nature. Wherefore in its act the movement of nature must be observed according to which the nutritive power administers to the generative power that alone which is in excess of what is required for the preservation of the individual: for the natural order requires that a thing should be first perfected in itself, and that afterwards it should communicate of its perfection to others: and this is also the order of charity which perfects nature. And therefore, since the wife has power over her husband only in relation to the generative power and not in relation to things directed to the preservation of the individual, the husband is bound to pay the debt to his wife, in matters pertaining to the begetting of children, with due regard however to his own welfare.

Reply Obj. 1. It is possible through fulfilling a precept to render oneself unfit for the exercise of a sacred duty: thus a judge becomes irregular by sentencing a man to death. In like manner he who pays the marriage debt, in fulfilment of the precept, becomes unfit for the exercise of divine offices, not because the act in question is sinful, but on account of its carnal nature. And so, according to the Master (*loc. cit.*), Jerome is speaking only of the ministers of the Church, and not of others who should be left to use their own discretion, because without sin they may either abstain out of reverence, or receive Christ's body out of devotion.

Reply Obj. 2. The wife has no power over her husband's body, except as is consistent with the welfare of his person, as stated above. Wherefore if she go beyond this in her demands, it is not a request for the debt, but an unjust exaction; and for this reason the husband is not bound to satisfy her.

Reply Obj. 3. If the husband be rendered incapable of paying the debt through a cause consequent upon marriage, for instance through having already paid the debt and being unable to pay it, the wife has no right to ask again, and in doing so she behaves as a harlot rather than as a wife. But if he be rendered incapable through some other cause, then if this be a lawful cause, he is not bound, and she cannot ask,

but if it be an unlawful cause, then he sins, and his wife's sin, should she fall into fornication on this account, is somewhat imputable to him. Hence he should endeavour to do his best that his wife may remain continent.

Reply Obj. 4. Leprosy voids a betrothal but not a marriage. Wherefore a wife is bound to pay the debt even to a leprous husband. But she is not bound to cohabit with him, because she is not so liable to infection from marital intercourse as from continual cohabitation. And though the child begotten of them be diseased, it is better to be thus than not at all.

Second Article.

Whether a husband is bound to pay the debt if his wife does not ask for it?

We proceed thus to the Second Article:—

Objection 1. It would seem that the husband is not bound to pay the marriage debt if his wife does not ask for it. For an affirmative precept is binding only at a certain time. But the time fixed for the payment of the debt can only be when it is asked for. Therefore he is not bound to payment otherwise.

Obj. 2. Further, We ought to presume the better things of everyone. Now even for married people it is better to be continent than to make use of marriage. Therefore unless she ask expressly for the debt, the husband should presume that it pleases her to be continent, and so he is not bound to pay her the debt.

Obj. 3. Further, As the wife has power over her husband, so has a master over his slave. Now a slave is not bound to serve his master save when the latter commands him. Therefore neither is a husband bound to pay the debt to his wife except when she demands it.

Obj. 4. Further, The husband can sometimes request his wife not to exact the debt when she asks for it. Much more therefore may he not pay it when he is not asked.

On the contrary, By the payment of the debt a remedy is

afforded against the wife's concupiscence. Now a physician who has the care of a sick person is bound to remedy the disease without being asked. Therefore the husband is bound to pay the debt to his wife although she ask not for it. Further, A superior is bound to apply a remedy for the sins of his subjects even though they rebel against it. But the payment of the debt on the husband's part is directed against the sins of his wife. Therefore sometimes the husband is bound to pay the debt to his wife even though she ask it not of him.

I answer that, The debt may be demanded in two ways. First, explicitly, as when they ask one another by words; secondly, implicitly, when namely the husband knows by certain signs that the wife would wish him to pay the debt, but is silent through shame. And so even though she does not ask for the debt explicitly in words, the husband is bound to pay it, whenever his wife shows signs of wishing him to do so.

Reply Obj. 1. The appointed time is not only when it is demanded but also when on account of certain signs there is fear of danger (to avoid which is the purpose of the payment of the debt) unless it be paid then.

Reply Obj. 2. The husband may presume this of his wife when he perceives in her no signs of the contrary; but it would be foolish of him to admit this presumption if he does see such signs.

Reply Obj. 3. The master is not ashamed to demand of his slave the duty of his service, as a wife is to ask the marriage debt of her husband. Yet if the master were not to demand it, either through ignorance or some other cause, the slave would nevertheless be bound to fulfil his duty, if some danger were threatening. For this is what is meant by *not serving to the eye* (Eph. vi. 6; Col. iii. 22) which is the Apostle's command to servants.

Reply Obj. 4. A husband should not dissuade his wife from asking for the debt, except for a reasonable cause; and even then he should not be too insistent, on account of the besetting danger.

Third Article.*

WHETHER IT IS ALLOWABLE FOR A MENSTRUOUS WIFE TO ASK FOR THE MARRIAGE DEBT?

We proceed thus to the Third Article :—

Objection 1. It would seem lawful for a menstruous wife to ask for the marriage debt. For in the Law a man who had an issue of seed was unclean, even as a menstruous woman. Yet a man who has an issue of seed may ask for the debt. Therefore a menstruous wife may also.

Obj. 2. Further, Leprosy is a worse complaint than suffering from monthly periods, and would seem to cause a greater corruption in the offspring. Yet a leper can ask for the debt. Therefore, etc.

Obj. 3. Further, If a menstruous wife is not allowed to ask for the debt, this can only be because it is feared this may be detrimental to the offspring. Yet if the wife be unfruitful there is no such fear. Therefore, seemingly, at least an unfruitful wife may ask for the debt during her menses.

On the contrary, Thou shalt not approach to a woman having her flowers (Levit. xviii. 19) where Augustine observes: *Although he has already sufficiently forbidden this, he repeats the prohibition here, lest he seem to have spoken figuratively.*

Further, *All our justices* are become *as the rag of a menstruous woman* (Isa. lxiv. 6) where Jerome observes: *Men ought then to keep away from their wives, because thus is a deformed, blind, lame, leprous offspring conceived : so that those parents who are not ashamed to come together in sexual intercourse have their sin made obvious to all :* and thus the same conclusion follows.

I answer that, It was forbidden in the Law to approach to a menstruous woman, for two reasons, both on account of her uncleanness, and on account of the harm that frequently resulted to the offspring from such intercourse. With regard to the first reason, it was a ceremonial precept, but with regard to the second it was a moral precept. For since marriage is chiefly directed to the good of the offspring, all use of marriage which is intended for the good of the offspring is in order. Consequently this precept is binding even in the New Law on account of the second reason, although not on account of the first. Now, the menstrual issue may be natural or unnatural. The natural issue is that to which women are subject at stated periods when they are in good health; and it is unnatural when they suffer from an issue of blood through some disorder resulting from sickness. Accordingly, if the menstrual flow be unnatural it is not forbidden in the New Law to approach to a menstruous woman, both on account of her infirmity since a woman in that state cannot conceive, and because an issue of this kind is lasting and continuous, so that the

* This and the Fourth Article are omitted in the Leonine edition.

husband would have to abstain for always. When however the woman is subject to a natural issue of the menstruum, she can conceive; moreover, the said issue lasts only a short time, wherefore it is forbidden to approach to her. In like manner a woman is forbidden to ask for the debt during the period of that issue.

Reply Obj. 1. The issue of seed in a man is the result of infirmity, nor is the seed in this case apt for generation. Moreover, a complaint of this kind is continual or lasting like leprosy: wherefore the comparison fails.

This suffices for the *Reply* to the *Second Objection.*

Reply Obj. 3. As long as a woman is subject to the menses it cannot be certain that she is sterile. For some are sterile in youth, and in course of time become fruitful, and *vice versa*, as the Philosopher observes (*De Gener. Anim.* xvi.).

Fourth Article.

WHETHER A MENSTRUOUS WOMAN SHOULD OR MAY LAWFULLY PAY THE MARRIAGE DEBT TO HER HUSBAND IF HE ASK FOR IT?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that a menstruous wife may not pay the marriage debt to her husband at his asking. For it is written (Lev. xx. 18) that if any man approach to a menstruous woman both shall be put to death. Therefore it would seem that both he who asks and she who grants are guilty of mortal sin.

Obj. 2. Further, *Not only they that do them, but they also that consent to them, are worthy of death* (Rom. i. 32). Now he who knowingly asks for the debt from a menstruous woman sins mortally. Therefore she also sins mortally by consenting to pay the debt.

Obj. 3. Further, A madman must not be given back his sword lest he kill himself or another. Therefore in like manner neither should a wife give her body to her husband during her menses, lest he be guilty of spiritual murder.

On the contrary, The wife hath not power of her own body, but the husband (1 Cor. vii. 4). Therefore at his asking his wife must pay the debt even during her menses.

Further, The menstruous wife should not be an occasion of sin to her husband. But she would give her husband an occasion of sin, if she paid him not the debt at his asking; since he might commit fornication. Therefore, etc.

I answer that, In this regard some have asserted that a menstruous woman may not pay the debt, even as she may not ask for it. For just as she would not be bound to pay it if she had some personal ailment so as to make it dangerous for herself, so is she not bound to pay for fear of danger to the offspring. But this opinion would seem to derogate from marriage, by which the

husband is given entire power of his wife's body with regard to the marriage act. Nor is there any parallel between bodily affliction of the offspring and the danger to her own body: since, if the wife be ailing, it is quite certain that she would be endangered by the carnal act, whereas this is by no means so certain with regard to the offspring which perhaps would not be forthcoming.

Wherefore others say that a menstruous woman is never allowed to ask for the debt; and that if her husband ask, he does so either knowingly or in ignorance. If knowingly, she ought to dissuade him by her prayers and admonitions; yet not so insistently as possibly to afford him an occasion of falling into other, and those sinful, practices, if he be deemed that way inclined. If, however, he ask in ignorance, the wife may put forward some motive, or allege sickness as a reason for not paying the debt, unless there be fear of danger to her husband. If, however, the husband ultimately persists in his request, she must yield to his demand. But it would not be safe for her to make known* her disaffection, lest this make her husband entertain a repulsion towards her, unless his prudence may be taken for granted.

Reply Obj. 1. This refers to the case when both willingly consent, but not when the woman pays the debt by force as it were.

Reply Obj. 2. Since there is no consent without the concurrence of the will, the woman is not deemed to consent in her husband's sin unless she pay the debt willingly. For when she is unwilling she is passive rather than consenting.

Reply Obj. 3. A madman should be given back his sword if a greater danger were feared from its not being returned to him: and thus it is in the case in point.

Fifth Article.

Whether husband and wife are equal in the marriage act?

We proceed thus to the Fifth Article:—

Objection 1. It would seem that husband and wife are not equal in the marriage act. For according to Augustine (*Gen. ad lit.* xii.) the agent is more noble than the patient. But in the marriage act the husband is as agent and the wife as patient. Therefore they are not equal in that act.

Obj. 2. Further, The wife is not bound to pay her husband the debt without being asked; whereas he is so bound, as

* *Indicare*, as in the commentary on the Sentences. The Leonine edition reads *judicare*.

stated above (AA. 1, 2). Therefore they are not equal in the marriage act.

Obj. 3. Further, The woman was made on the man's account in reference to marriage, according to Gen. ii. 18, *Let us make him a help like unto himself.* But that on account of which another thing is, is always the principal. Therefore, etc.

Obj. 4. Further, Marriage is chiefly directed to the marriage act. But in marriage *the husband is the head of the wife* (Eph. v. 23). Therefore they are not equal in the aforesaid act.

On the contrary, It is written (1 Cor. vii. 4): *The husband . . . hath not power of his own body,* and the same is said of the wife. Therefore they are equal in the marriage act.

Further, Marriage is a relation of equiparence, since it is a kind of union, as stated above (Q. XLIV., AA. 1, 3). Therefore husband and wife are equal in the marriage act.

I answer that, Equality is twofold, of quantity and of proportion. Equality of quantity is that which is observed between two quantities of the same measure, for instance a thing two cubits long and another two cubits in length. But equality of proportion is that which is observed between two proportions of the same kind as double to double. Accordingly, speaking of the first equality, husband and wife are not equal in marriage; neither as regards the marriage act, wherein the more noble part is due to the husband, nor as regards the household management, wherein the wife is ruled and the husband rules. But with reference to the second kind of equality, they are equal in both matters, because just as in both the marriage act and in the management of the household the husband is bound to the wife in all things pertaining to the husband, so is the wife bound to the husband in all things pertaining to the wife. It is in this sense that it is stated in the text (iv. *Sent.* D. 32) that they are equal in paying and demanding the debt.

Reply Obj. 1. Although it is more noble to be active than passive, there is the same proportion between patient and passivity as between agent and activity; and accordingly there is equality of proportion between them.

Reply Obj. 2. This is accidental. For the husband having the more noble part in the marriage act, it is natural that he should be less ashamed than the wife to ask for the debt. Hence it is that the wife is not bound to pay the debt to her husband without being asked, whereas the husband is bound to pay it to the wife.

Reply Obj. 3. This proves that they are not equal absolutely, but not that they are not equal in proportion.

Reply Obj. 4. Although the head is the principal member, yet just as the members are bound to the head in their own respective capacities, so is the head in its own capacity bound to the members: and thus there is equality of proportion between them.

Sixth Article.

Whether husband and wife can take a vow contrary to the marriage debt without their mutual consent?

We proceed thus to the Sixth Article:—

Objection 1. It would seem that husband and wife may take a vow contrary to the marriage debt without their mutual consent. For husband and wife are equally bound to pay the debt, as stated above (A. 5). Now it is lawful for the husband, even if his wife be unwilling, to take the cross in defence of the Holy Land: and consequently this is also lawful to the wife. Therefore, since this prevents the payment of the debt, either husband or wife may without the other's consent take the aforesaid vow.

Obj. 2. Further, In taking a vow one should not await the consent of another who cannot dissent without sin. Now the husband or wife cannot, without sin, refuse their consent to the other's taking a vow of continence whether absolutely or for a time; because to prevent a person's spiritual progress is a sin against the Holy Ghost. Therefore the one can take a vow of continence either absolutely or for a time, without the other's consent.

Obj. 3. Further, In the marriage act, the debt has to be demanded just as it has to be paid. Now the one can,

without the other's consent, vow not to demand the debt, since in this he is within his own rights. Therefore he can equally take a vow not to pay the debt.

Obj. 4. Further, No one can be bound by the command of a superior to do what he cannot lawfully vow or do simply, since one must not obey in what is unlawful. Now the superior authority might command the husband not to pay the debt to his wife for a time, by occupying him in some service. Therefore he might, of his own accord, do or vow that which would hinder him from paying the debt.

On the contrary, It is written (1 Cor. vii. 5): *Defraud not one another, except . . . by consent, for a time, that you may give yourselves to prayer.*

Further, No one can vow that which belongs to another. Now *the husband . . . hath not power of his own body, but the wife* (*ibid.* 4). Therefore, without her consent, the husband cannot take a vow of continence whether absolutely or for a time.

I answer that, A vow is a voluntary act, as its very name implies: and consequently a vow can only be about those goods which are subject to our will, and those in which one person is bound to another do not come under this head. Therefore in matters of this kind one person cannot take a vow without the consent of the one to whom he is bound. Consequently, since husband and wife are mutually bound as regards the payment of the debt which is an obstacle to continence, the one cannot vow continence without the other's consent; and if he take the vow he sins, and must not keep the vow, but must do penance for an ill-taken vow.*

Reply Obj. 1. It is sufficiently probable that the wife ought to be willing to remain continent for a time, in order to succour the need of the universal Church. Hence in favour of the business for which the cross is given to him, it is laid down that the husband may take the cross without his wife's consent, even as he might go fighting without the consent of his landlord whose land he has leased. And yet

* *Supra,* Q. LIII., AA. 1, 4; Q. LXI., A. 1.

the wife is not entirely deprived of her right, since she can follow him. Nor is there a parallel between wife and husband: because, since the husband has to rule the wife and not *vice versa*, the wife is bound to follow her husband rather than the husband the wife. Moreover there would be more danger to the wife's chastity as a result of wandering from country to country, than to the husband's, and less profit to the Church. Wherefore the wife cannot take this vow without her husband's consent.

Reply Obj. 2. The one spouse, by refusing to consent to the other's vow of continence, does not sin, because the object of his dissent is to hinder not the other's good, but the harm to himself.

Reply Obj. 3. There are two opinions on this point. For some say that one can without the other's consent vow not to demand the debt, not however not to pay it, because in the former case they are both within their own rights, but not in the second. Seeing, however, that if one were never to ask for the debt, marriage would become too burdensome to the other who would always have to undergo the shame of asking for the debt, others assert with greater probability that neither vow can be lawfully taken by one spouse without the other's consent.

Reply Obj. 4. Just as the wife receives power over her husband's body, without prejudice to the husband's duty to his own body, so also is it without prejudice to his duty to his master. Hence just as a wife cannot ask her husband for the debt to the detriment of his bodily health, so neither can she do this so as to hinder him in his duty to his master. And yet the master cannot for this reason prevent her from paying the debt.

Seventh Article.

Whether it is forbidden to demand the debt on holy days?

We proceed thus to the Seventh Article :—

Objection 1. It would seem that a person ought not to be forbidden to ask for the debt on holy days. For the remedy

should be applied when the disease gains strength. Now concupiscence may possibly gain strength on a feast day. Therefore the remedy should be applied then by asking for the debt.

Obj. 2. Further, The only reason why the debt should not be demanded on feast days is because they are devoted to prayer. Yet on those days certain hours are appointed for prayer. Therefore one may ask for the debt at some other time.

On the contrary, Just as certain places are holy because they are devoted to holy things, so are certain times holy for the same reason. But it is not lawful to demand the debt in a holy place. Therefore neither is it lawful at a holy time.

I answer that, Although the marriage act is void of sin, nevertheless since it oppresses the reason on account of the carnal pleasure, it renders man unfit for spiritual things. Therefore, on those days when one ought especially to give one's time to spiritual things, it is not lawful to ask for the debt.

Reply Obj. 1. At such a time other means may be employed for the repression of concupiscence; for instance, prayer and many similar things, to which even those who observe perpetual continence have recourse.

Reply Obj. 2. Although one is not bound to pray at all hours, one is bound throughout the day to keep oneself fit for prayer.

EIGHTH ARTICLE.

WHETHER IT IS A MORTAL SIN TO ASK FOR THE DEBT AT A HOLY TIME?

We proceed thus to the Eighth Article :—

Objection 1. It would seem that it is a mortal sin to ask for the debt at a holy time. For Gregory says (*Dial.* i.) that the devil took possession of a woman who had intercourse with her husband at night and came in the morning to the procession. But this would not have happened had she not sinned mortally. Therefore, etc.

Obj. 2. Further, Whoever disobeys a Divine command

commits a mortal sin. Now the Lord commanded (Exod. xix. 15): *Come not near your wives,* when namely they were about to receive the Law. Much more therefore do husbands sin mortally if they have intercourse with their wives at a time when they should be intent on the sacred observances of the New Law.

On the contrary, No circumstance aggravates infinitely. But undue time is a circumstance. Therefore it does not aggravate a sin infinitely, so as to make mortal what was otherwise venial.

I answer that, To ask for the debt on a feast day is not a circumstance drawing a sin into another species; wherefore it cannot aggravate infinitely. Consequently a wife or husband does not sin mortally by asking for the debt on a feast day. It is however a more grievous sin to ask for the sake of mere pleasure, than through fear of the weakness of the flesh.

Reply Obj. 1. This woman was punished not because she paid the debt, but because afterwards she rashly intruded into the divine service against her conscience.

Reply Obj. 2. The authority quoted shows not that it is a mortal sin but that it is unbecoming. For under the Old Law which was given to a carnal people many things were required under an obligation of precept, for the sake of bodily cleanness, which are not required in the New Law which is the law of the spirit.

Ninth Article.

Whether one spouse is bound to pay the debt to the other at a festal time?

We proceed thus to the Ninth Article :—

Objection 1. It would seem that neither are they bound to pay the debt at a festal time. For those who commit a sin as well as those who consent thereto are equally punished (Rom. i. 32). But the one who pays the debt consents with the one that asks, who sins. Therefore he sins also.

Obj. 2. Further, It is an affirmative precept that binds

us to pray, and therefore we are bound to do so at a fixed time. Therefore one ought not to pay the debt at a time when one is bound to pray, as neither ought one at a time when one is bound to fulfil a special duty towards a temporal master.

On the contrary, It is written (1 Cor. vii. 5): *Defraud not one another, except by consent, for a time,* etc. Therefore when one spouse asks the other must pay.

I answer that, Since the wife has power of her husband's body, and *vice versa,* with regard to the act of procreation, the one is bound to pay the debt to the other, at any season or hour, with due regard to the decorum required in such matters, for this must not be done at once openly.

Reply Obj. 1. As far as he is concerned he does not consent, but grants unwillingly and with grief that which is exacted of him; and consequently he does not sin. For it is ordained by God, on account of the weakness of the flesh, that the debt must always be paid to the one who asks lest he be afforded an occasion of sin.

Reply Obj. 2. No hour is fixed for praying, but that compensation can be made at some other hour; wherefore the argument is not cogent.

TENTH ARTICLE.*

WHETHER WEDDINGS SHOULD BE FORBIDDEN AT CERTAIN TIMES?

We proceed thus to the Tenth Article:—

Objection 1. It would seem that weddings ought not to be forbidden at certain times. For marriage is a sacrament: and the celebration of the other sacraments is not forbidden at those times. Therefore neither should the celebration of marriage be forbidden then.

Obj. 2. Further, Asking for the marriage debt is more unbecoming on feast days than the celebration of marriage. Yet the debt may be asked for on those days. Therefore also marriages may be solemnized.

Obj. 3. Further, Marriages that are contracted in despite of the law of the Church ought to be dissolved. Yet marriages are not dissolved if they be contracted at those times. Therefore it should not be forbidden by a commandment of the Church.

* This article is omitted in the Leonine edition.

On the contrary, It is written (Eccles. iii. 5): *A time to embrace, and a time to be far from embraces.*

I answer that, When the newly married spouse is given to her husband, the minds of husband and wife are taken up with carnal preoccupations by reason of the very newness of things, wherefore weddings are wont to be signalized by much unrestrained rejoicing. On this account it is forbidden to celebrate marriages at those times when men ought especially to arise to spiritual things. Those times are from Advent until the Epiphany because of the Communion which, according to the ancient Canons, is wont to be made at Christmas (as was observed in its proper place, P. III., Q. XXX.). from Septuagesima until the Octave day of Easter, on account of the Easter Communion, and from the three days before the Ascension until the Octave day of Pentecost, on account of the preparation for Communion to be received at that time.

Reply Obj. 1. The celebration of marriage has a certain worldly and carnal rejoicing connected with it, which does not apply to the other sacraments. Hence the comparison fails.

Reply Obj. 2. There is not such a distraction of minds caused by the payment of a request for the debt as by the celebration of a marriage; and consequently the comparison fails.

Reply Obj. 3. Since time is not essential to a marriage contracted within the forbidden seasons, the marriage is nevertheless a true sacrament. Nor is the marriage dissolved absolutely, but for a time, that they may do penance for having disobeyed the commandment of the Church. It is thus that we are to understand the statement of the Master (iv. *Sent.* D. 33), namely that should a marriage have been contracted or a wedding celebrated at the aforesaid times, those who have done so *ought to be separated.* Nor does he say this on his own authority, but in reference to some canonical ordinance, such as that of the Council of Lerida, which decision is quoted by the Decretals.

QUESTION LXV.

OF PLURALITY OF WIVES.

(*In Five Articles.*)

We must now consider the plurality of wives. Under this head there are five points of inquiry: (1) Whether it is against the natural law to have several wives? (2) Whether this was ever lawful? (3) Whether it is against the natural law to have a concubine? (4) Whether it is a mortal sin to have intercourse with a concubine? (5) Whether it was ever lawful to have a concubine?

First Article.

WHETHER IT IS AGAINST THE NATURAL LAW TO HAVE SEVERAL WIVES?

We proceed thus to the First Article :—

Objection 1. It would seem that it is not against the natural law to have several wives. For custom does not prejudice the law of nature. But *it was not a sin* to have several wives *when this was the custom* according to Augustine (*De Bono Conjug.* xv.) as quoted in the text (iv. *Sent.* D. 33). Therefore it is not contrary to the natural law to have several wives.

Obj. 2. Further, Whoever acts in opposition to the natural law, disobeys a commandment, for the law of nature has its commandments even as the written law has. Now Augustine says (*loc. cit.* and *De Civ. Dei.* xv. 38) that *it was not contrary to a commandment* to have several wives, *because by no law was it forbidden.* Therefore it is not against the natural law to have several wives.

Obj. 3. Further, Marriage is chiefly directed to the be-

getting of offspring. But one man may get children of several women, by causing them to be pregnant. Therefore it is not against the natural law to have several wives.

Obj. 4. Further, *Natural right is that which nature has taught all animals*, as stated at the beginning of the *Digests* (l. i. ff. De just. et jure). Now nature has not taught all animals that one male should be united to but one female, since with many animals the one male is united to several females. Therefore it is not against the natural law to have several wives.

Obj. 5. Further, According to the Philosopher (*De Gener. Animal.* i. 20), in the begetting of offspring the male is to the female as agent to patient, and as the craftsman is to his material. But it is not against the order of nature for one agent to act on several patients, or for one craftsman to work in several materials. Therefore neither is it contrary to the law of nature for one husband to have many wives.

Obj. 6. *On the contrary*, That which was instilled into man at the formation of human nature would seem especially to belong to the natural law. Now it was instilled into him at the very formation of human nature that one man should have one wife, according to Gen. ii. 24, *They shall be two in one flesh*. Therefore it is of natural law.

Obj. 7. Further, It is contrary to the law of nature that man should bind himself to the impossible, and that what is given to one should be given to another. Now when a man contracts with a wife, he gives her the power of his body, so that he is bound to pay her the debt when she asks. Therefore it is against the law of nature that he should afterwards give the power of his body to another, because it would be impossible for him to pay both were both to ask at the same time.

Obj. 8. Further, *Do not to another what thou wouldst not were done to thyself** is a precept of the natural law. But a husband would by no means be willing for his wife to have another husband. Therefore he would be acting against the law of nature, were he to have another wife in addition.

* Cf. Tob. iv. 16.

Obj. 9. Further, Whatever is against the natural desire is contrary to the natural law. Now a husband's jealousy of his wife and the wife's jealousy of her husband are natural, for they are found in all. Therefore, since jealousy is *love impatient of sharing the beloved*, it would seem to be contrary to the natural law that several wives should share one husband.

I answer that, All natural things are imbued with certain principles whereby they are enabled not only to exercise their proper actions, but also to render those actions proportionate to their end, whether such actions belong to a thing by virtue of its generic nature, or by virtue of its specific nature: thus it belongs to a magnet to be borne downwards by virtue of its generic nature, and to attract iron by virtue of its specific nature. Now just as in those things which act from natural necessity the principle of action is the form itself, whence their proper actions proceed proportionately to their end, so in things which are endowed with knowledge the principles of action are knowledge and appetite. Hence in the cognitive power there needs to be a natural concept, and in the appetitive power a natural inclination, whereby the action befitting the genus or species is rendered proportionate to the end. Now since man, of all animals, knows the aspect of the end, and the proportion of the action to the end, it follows that he is imbued with a natural concept, whereby he is directed to act in a befitting manner, and this is called *the natural law* or *the natural right*, but in other animals *the natural instinct*. For brutes are rather impelled by the force of nature to do befitting actions, than guided to act on their own judgment. Therefore the natural law is nothing else than a concept naturally instilled into man, whereby he is guided to act in a befitting manner in his proper actions, whether they are competent to him by virtue of his generic nature, as, for instance, to beget, to eat, and so on, or belong to him by virtue of his specific nature, as, for instance, to reason and so forth. Now whatever renders an action improportionate to the end which nature intends to obtain by

a certain work is said to be contrary to the natural law. But an action may be improportionate either to the principal or to the secondary end, and in either case this happens in two ways. First, on account of something which wholly hinders the end; for instance a very great excess or a very great deficiency in eating hinders both the health of the body, which is the principal end of food, and aptitude for conducting business, which is its secondary end. Secondly, on account of something that renders the attainment of the principal or secondary end difficult, or less satisfactory, for instance eating inordinately in respect of undue time. Accordingly if an action be improportionate to the end, through altogether hindering the principal end directly, it is forbidden by the first precepts of the natural law, which hold the same place in practical matters, as the general concepts of the mind in speculative matters. If, however, it be in any way improportionate to the secondary end, or again to the principal end, as rendering its attainment difficult or less satisfactory, it is forbidden, not indeed by the first precepts of the natural law, but by the second which are derived from the first even as conclusions in speculative matters receive our assent by virtue of self-known principles: and thus the act in question is said to be against the law of nature.

Now marriage has for its principal end the begetting and rearing of children, and this end is competent to man according to his generic nature, wherefore it is common to other animals (*Ethic.* viii. 12), and thus it is that the *offspring* is assigned as a marriage good. But for its secondary end, as the Philosopher says (*ibid.*), it has, among men alone, the community of works that are a necessity of life, as stated above (Q. XLI., A. 1). And in reference to this they owe one another *fidelity* which is one of the goods of marriage. Furthermore it has another end, as regards marriage between believers, namely the signification of Christ and the Church: and thus the *sacrament* is said to be a marriage good. Wherefore the first end corresponds to the marriage of man inasmuch as he is an animal; the second, inasmuch as he is a

man; the third, inasmuch as he is a believer. Accordingly plurality of wives neither wholly destroys nor in any way hinders the first end of marriage, since one man is sufficient to get children of several wives, and to rear the children born of them. But though it does not wholly destroy the second end, it hinders it considerably, for there cannot easily be peace in a family where several wives are joined to one husband, since one husband cannot suffice to satisfy the requisitions of several wives, and again because the sharing of several in one occupation is a cause of strife; thus *potters quarrel with another**, and in like manner the several wives of one husband. The third end, it removes altogether, because as Christ is one, so also is the Church one. It is therefore evident from what has been said that plurality of wives is in a way against the law of nature, and in a way not against it.

Reply Obj. 1. Custom does not prejudice the law of nature as regards the first precepts of the latter, which are like the general concepts of the mind in speculative matters. But those which are drawn like conclusions from these custom enforces, as Tully declares (*De inv. Rhet.* ii.), or weakens. Such is the precept of nature in the matter of having one wife.

Reply Obj. 2. As Tully says (*ibid.*) *fear of the law and religion have sanctioned those things that come from nature and are approved by custom.* Wherefore it is evident that those dictates of the natural law, which are derived from the first principles as it were of the natural law, have not the binding force of an absolute commandment, except when they have been sanctioned by Divine or human law. This is what Augustine means by saying that *they did not disobey the commandments of the law, since it was not forbidden by any law.*

The *Reply* to the *Third Objection* follows from what has been said.

Reply Obj. 4. Natural right has several significations. First a right is said to be natural by its principle, because it is instilled by nature: and thus Tully defines it (*ibid.*) when

* Aristot. (*Rhet.* ii. 4).

he says: *Natural right is not the result of opinion but the product of an innate force.* And since even in natural things certain movements are called natural, not that they be from an intrinsic principle, but because they are from a higher moving principle,—thus the movements that are caused in the elements by the impress of heavenly bodies are said to be natural, as the Commentator states (*De cœlo et mundo* iii. 28)—therefore those things that are of Divine right are said to be of natural right, because they are caused by the impress and influence of a higher principle, namely God. Isidore takes it in this sense, when he says (*Etym.* v.) that *the natural right is that which is contained in the Law and the Gospel.* Thirdly, right is said to be natural not only from its principle but also from its matter, because it is about natural things. And since nature is contradistinguished with reason, whereby man is a man, it follows that if we take natural right in its strictest sense, those things which are dictated by natural reason and pertain to man alone are not said to be of natural right, but only those which are dictated by natural reason and are common to man and other animals. Thus we have the aforesaid definition. namely: *Natural right is what nature has taught all animals.* Accordingly plurality of wives, though not contrary to natural right taken in the third sense, is nevertheless against natural right taken in the second sense, because it is forbidden by the Divine law. It is also against natural right taken in the first sense, as appears from what has been said, for such is nature's dictate to every animal according to the mode befitting its nature. Wherefore also certain animals, the rearing of whose offspring demands the care of both, namely the male and female, by natural instinct cling to the union of one with one, for instance the turtle-dove, the dove, and so forth.

The *Reply* to the *Fifth Objection* is clear from what has been said.

Since, however, the arguments adduced *on the contrary* side would seem to show that plurality of wives is against the first principles of the natural law, we must reply to them.

Accordingly we reply to the *Sixth Objection* that human nature was founded without any defect, and consequently it is endowed not only with those things without which the principal end of marriage is impossible of attainment, but also with those without which the secondary end of marriage could not be obtained without difficulty: and in this way it sufficed man when he was first formed to have one wife, as stated above.

Reply Obj. 7. In marriage the husband gives his wife power of his body, not in all respects, but only in those things that are required by marriage. Now marriage does not require the husband to pay the debt every time his wife asks for it, if we consider the principal end for which marriage was instituted, namely the good of the offspring, but only as far as is necessary for impregnation. But in so far as it is instituted as a remedy (which is its secondary end), marriage does require the debt to be paid at all times on being asked for. Hence it is evident that by taking several wives a man does not bind himself to the impossible, considering the principal end of marriage; and therefore plurality of wives is not against the first principles of the natural law.

Reply Obj. 8. This precept of the natural law, *Do not to another what thou wouldst not were done to thyself*, should be understood with the proviso that there be equal proportion. For if a superior is unwilling to be withstood by his subject, he is not therefore bound not to withstand his subject. Hence it does not follow in virtue of this precept that as a husband is unwilling for his wife to have another husband, he must not have another wife: because for one man to have several wives is not contrary to the first principles of the natural law, as stated above: whereas for one wife to have several husbands is contrary to the first principles of the natural law, since thereby the good of the offspring which is the principal end of marriage is, in one respect, entirely destroyed, and in another respect, hindered. For the good of the offspring means not only begetting, but also rearing. Now the begetting of offspring, though not wholly voided (since a woman may be impregnated a second time after impregnation has

already taken place, as stated in *De gener. animal.* vii. 4), is nevertheless considerably hindered, because this can scarcely happen without injury either to both fetus or to one of them. But the rearing of the offspring is altogether done away, because as a result of one woman having several husbands there follows uncertainty of the offspring in relation to its father, whose care is necessary for its education. Wherefore the marriage of one wife with several husbands has not been sanctioned by any law or custom, whereas the converse has been.

Reply Obj. 9. The natural inclination in the appetitive power follows the natural concept in the cognitive power. And since it is not so much opposed to the natural concept for a man to have several wives as for a wife to have several husbands, it follows that a wife's love is not so averse to another sharing the same husband with her, as a husband's love is to another sharing the same wife with him. Consequently both in man and in other animals the male is more jealous of the female than *vice versa*.

Second Article.

whether it was ever lawful to have several wives?

We proceed thus to the Second Article :—

Objection 1. It would seem that it can never have been lawful to have several wives. For, according to the Philosopher (*Ethic.* v. 7), *The natural law has the same power at all times and places.* Now plurality of wives is forbidden by the natural law, as stated above (A. 1). Therefore as it is unlawful now, it was unlawful at all times.

Obj. 2. Further, If it was ever lawful, this could only be because it was lawful either in itself, or by dispensation. If the former, it would also be lawful now; if the latter, this is impossible, for according to Augustine (*Contra Faust.* xxvi. 3), *as God is the founder of nature, He does nothing contrary to the principles which He has planted in nature.* Since then God has planted in our nature the principle that

one man should be united to one wife, it would seem that He has never dispensed man from this.

Obj. 3. Further, If a thing be lawful by dispensation, it is only lawful for those who receive the dispensation. Now we do not read in the Law of a general dispensation having been granted to all. Since then in the Old Testament all who wished to do so, without any distinction, took to themselves several wives, nor were reproached on that account, either by the law or by the prophets, it would seem that it was not made lawful by dispensation.

Obj. 4. Further, Where there is the same reason for dispensation, the same dispensation should be given. Now we cannot assign any other reason for dispensation than the multiplying of the offspring for the worship of God, and this is necessary also now. Therefore this dispensation would be still in force, especially as we read nowhere of its having been recalled.

Obj. 5. Further, In granting a dispensation the greater good should not be overlooked for the sake of a lesser good. Now fidelity and the sacrament, which it would seem impossible to safeguard in a marriage where one man is joined to several wives, are greater goods than the multiplication of the offspring. Therefore this dispensation ought not to have been granted with a view to this multiplication.

On the contrary, It is stated (Gal. iii. 19) that the Law *was set because of transgressors* (Vulg.,—*transgressions*), namely in order to prohibit them. Now the Old Law mentions plurality of wives without any prohibition thereof, as appears from Deut. xxi. 15, *If a man have two wives,* etc. Therefore they were not transgressors through having two wives, and so it was lawful.

Further, This is confirmed by the example of the holy patriarchs, who are stated to have had several wives, and yet were most pleasing to God, for instance Jacob, David, and several others. Therefore at one time it was lawful.

I answer that, As stated above (A. 1, *ad* 7, 8), plurality of wives is said to be against the natural law, not as regards

its first precepts, but as regards the secondary precepts, which like conclusions are drawn from its first precepts. Since, however, human acts must needs vary according to the various conditions of persons, times, and other circumstances, the aforesaid conclusions do not proceed from the first precepts of the natural law, so as to be binding in all cases, but only in the majority; for such is the entire matter of Ethics according to the Philosopher (*Ethic.* i. 3, 7). Hence, when they cease to be binding, it is lawful to disregard them. But because it is not easy to determine the above variations, it belongs exclusively to him from whose authority he derives its binding force to permit the non-observance of the law in those cases to which the force of the law ought not to extend, and this permission is called a dispensation. Now the law prescribing the one wife was framed not by man but by God, nor was it ever given by word or in writing, but was imprinted on the heart, like other things belonging in any way to the natural law. Consequently a dispensation in this matter could be granted by God alone through an inward inspiration, vouchsafed originally to the holy patriarchs, and by their example continued to others, at a time when it behoved the aforesaid precept not to be observed, in order to ensure the multiplication of the offspring to be brought up in the worship of God. For the principal end is ever to be borne in mind before the secondary end. Wherefore, since the good of the offspring is the principal end of marriage, it behoved to disregard for a time the impediment that might arise to the secondary ends, when it was necessary for the offspring to be multiplied; because it was for the removal of this impediment that the precept forbidding a plurality of wives was framed, as stated above (A. 1).

Reply Obj. 1. The natural law, considered in itself, has the same force at all times and places; but accidentally on account of some impediment it may vary at certain times and places, as the Philosopher (*ibid.*) instances in the case of other natural things. For at all times and places the right hand is better than the left according to nature, but it may happen accidentally that a person is ambidextrous, because our

nature is variable; and the same applies to the natural, just as the Philosopher states (*ibid.*).

Reply Obj. 2. In a Decretal (De divortiis, cap. *Gaudemus*) it is asserted that it was never lawful to have several wives without having a dispensation received through Divine inspiration. Nor is the dispensation thus granted a contradiction to the principles which God has implanted in nature, but an exception to them, because those principles are not intended to apply to all cases but to the majority, as stated. Even so it is not contrary to nature when certain occurrences take place in natural things miraculously, by way of exception to more frequent occurrences.

Reply Obj. 3. Dispensation from a law should follow the quality of the law. Wherefore, since the law of nature is imprinted on the heart, it was not necessary for a dispensation from things pertaining to the natural law to be given under the form of a written law, but by internal inspiration.

Reply Obj. 4. When Christ came it was the time of the fulness of the grace of Christ, whereby the worship of God was spread abroad among all nations by a spiritual propagation. Hence there is not the same reason for a dispensation as before Christ's coming, when the worship of God was spread and safeguarded by a carnal propagation.

Reply Obj. 5. The offspring, considered as one of the marriage goods, includes the keeping of faith with God, because the reason why it is reckoned a marriage good is because it is awaited with a view to its being brought up in the worship of God. Now the faith to be kept with God is of greater import than the faith to be kept with a wife, which is reckoned a marriage good, and than the signification which pertains to the sacrament, since the signification is subordinate to the knowledge of faith. Hence it is not unfitting if something is taken from the two other goods for the sake of the good of the offspring. Nor are they entirely done away, since there remains faith towards several wives; and the sacrament remains after a fashion, for though it did not signify the union of Christ with the Church as one, nevertheless the plurality of wives signified the distinction of degrees in

the Church, which distinction is not only in the Church militant but also in the Church triumphant. Consequently their marriages signified somewhat the union of Christ not only with the Church militant, as some say, but also with the Church triumphant where there are *many mansions*.*

Third Article.

whether it is against the natural law to have a concubine?

We proceed thus to the Third Article:—

Objection 1. It would seem that to have a concubine is not against the natural law. For the ceremonies of the Law are not of the natural law. But fornication is forbidden (Acts xv. 29) in conjunction with ceremonies of the Law which for the time were being imposed on those who were brought to the faith from among the heathens. Therefore simple fornication which is intercourse with a concubine is not against the natural law.

Obj. 2. Further, Positive law is an outcome of the natural law, as Tully says (*De Invent.* ii.). Now fornication was not forbidden by positive law; indeed according to the ancient laws women used to be sentenced to be taken to brothels. Therefore it is not against the natural law to have a concubine.

Obj. 3. Further, The natural law does not forbid that which is given simply, to be given for a time or under certain restrictions. Now one unmarried woman may give the power of her body for ever to an unmarried man, so that he may use her when he will. Therefore it is not against the law of nature, if she give him power of her body for a time.

Obj. 4. Further, Whoever uses his own property as he will, injures no one. But a bondswoman is her master's property. Therefore if her master use her as he will, he injures no one: and consequently it is not against the natural law to have a concubine.

Obj. 5. Further, Everyone may give his own property to another. Now the wife has power of her husband's body

* John xix. 2.

(1 Cor. vii. 4). Therefore if his wife be willing, the husband can have intercourse with another woman without sin.

On the contrary, According to all laws the children born of a concubine are children of shame. But this would not be so unless the union of which they are born were naturally shameful.

Further, As stated above (Q. XLI., A. 1), marriage is natural. But this would not be so if without prejudice to the natural law a man could be united to a woman otherwise than by marriage. Therefore it is against the natural law to have a concubine.

I answer that, As stated above (A. 1), an action is said to be against the natural law, if it is not in keeping with the due end intended by nature, whether through not being directed thereto by the action of the agent, or through being in itself improportionate to that end. Now the end which nature intends in sexual union is the begetting and rearing of the offspring; and that this good might be sought after, it attached pleasure to the union; as Augustine says (*De Nup. et Concup.* i. 8). Accordingly to make use of sexual intercourse on account of its inherent pleasure, without reference to the end for which nature intended it, is to act against nature, as also is it if the intercourse be not such as may fittingly be directed to that end. And since, for the most part, things are denominated from their end, as being that which is of most consequence to them, just as the marriage union took its name from the good of the offspring,* which is the end chiefly sought after in marriage, so the name of concubine is expressive of that union where sexual intercourse is sought after for its own sake. Moreover even though sometimes a man may seek to have offspring of such an intercourse, this is not befitting to the good of the offspring, which signifies not only the begetting of children from which they take their being, but also their rearing and instruction, by which means they receive nourishment and learning from their parents, in respect of which three things the parents are bound to their children, according to the

* *Supra,* Q. XLIV., A. 2.

Philosopher (*Ethic.* viii. 11, 12). Now since the rearing and teaching of the children remain a duty of the parents during a long period of time, the law of nature requires the father and mother to dwell together for a long time, in order that together they may be of assistance to their children. Hence birds that unite together in rearing their young do not sever their mutual fellowship from the time when they first come together until the young are fully fledged. Now this obligation which binds the female and her mate to remain together constitutes matrimony. Consequently it is evident that it is contrary to the natural law for a man to have intercourse with a woman who is not married to him, which is the signification of a concubine.

Reply Obj. 1. Among the Gentiles the natural law was obscured in many points: and consequently they did not think it wrong to have intercourse with a concubine, and in many cases practised fornication as though it were lawful, as also other things contrary to the ceremonial laws of the Jews, though not contrary to the law of nature. Wherefore the apostles inserted the prohibition of fornication among that of other ceremonial observances, because in both cases there was a difference of opinion between Jews and Gentiles.

Reply Obj. 2. This law was the result of the darkness just mentioned, into which the Gentiles had fallen, by not giving due honour to God as stated in Rom. i. 21, and did not proceed from the instinct of the natural law. Hence, when the Christian religion prevailed, this law was abolished.

Reply Obj. 3. In certain cases no evil results ensue if a person surrenders his right to a thing whether absolutely or for a time, so that in neither case is the surrender against the natural law. But that does not apply to the case in point, wherefore the argument does not prove.

Reply Obj. 4. Injury is opposed to justice. Now the natural law forbids not only injustice, but also whatever is opposed to any of the virtues: for instance it is contrary to the natural law to eat immoderately, although by doing so a man uses his own property without injury to anyone. Moreover although a bondswoman is her master's property

that she may serve him, she is not his that she may be his concubine. And again it depends how a person makes use of his property. For such a man does an injury to the offspring he begets, since such a union is not directed to its good, as stated above.

Reply Obj. 5. The wife has power of her husband's body, not simply and in all respects, but only in relation to marriage and consequently she cannot transfer her husband's body to another to the detriment of the good of marriage.

FOURTH ARTICLE.

WHETHER IT IS A MORTAL SIN TO HAVE INTERCOURSE WITH A CONCUBINE?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that it is not a mortal sin to have intercourse with a concubine. For a lie is a greater sin than simple fornication: and a proof of this is that Juda, who did not abhor to commit fornication with Thamar, recoiled from telling a lie, saying (Gen. xxxviii. 23): *Surely she cannot charge us with a lie.* But a lie is not always a mortal sin. Neither therefore is simple fornication.

Obj. 2. Further, A deadly sin should be punished with death. But the Old Law did not punish with death intercourse with a concubine, save in a certain case (Deut. xxii. 25). Therefore it is not a deadly sin.

Obj. 3. Further, According to Gregory (*Moral.* xxxiii. 11), the sins of the flesh are less blameworthy than spiritual sins. Now pride and covetousness, which are spiritual sins, are not always mortal sins. Therefore fornication, which is a sin of the flesh, is not always a mortal sin.

Obj. 4. Further, Where the incentive is greater the sin is less grievous, because he sins more who is overcome by a lighter temptation. But concupiscence is the greatest incentive to lust. Therefore since lustful actions are not always mortal sins, neither is simple fornication a mortal sin.

On the contrary, Nothing but mortal sin excludes from the kingdom of God. But fornicators are excluded from the

kingdom of God (1 Cor. vi. 9, 10). Therefore simple fornication is a mortal sin.

Further, Mortal sins alone are called crimes. Now all fornication is a crime according to Tob. iv. 13, *Take heed to keep thyself . . . from all fornication, and beside thy wife never endure to know crime.* Therefore, etc.

I answer that, As we have already stated (ii. *Sent.* D. 42, Q. I., A. 4), those sins are mortal in their genus which violate the bond of friendship between man and God, and between man and man; for such sins are against the two precepts of charity which is the life of the soul. Wherefore since the intercourse of fornication destroys the due relations of the parent with the offspring that is nature's aim in sexual intercourse, there can be no doubt that simple fornication by its very nature is a mortal sin even though there were no written law.

Reply Obj. 1. It often happens that a man who does not avoid a mortal sin, avoids a venial sin to which he has not so great an incentive. Thus, too, Juda avoided a lie while he avoided not fornication. Nevertheless that would have been a pernicious lie, for it would have involved an injury if he had not kept his promise.

Reply Obj. 2. A sin is called deadly, not because it is punished with temporal, but because it is punished with eternal death. Hence also theft, which is a mortal sin, and many other sins are sometimes not punished with temporal death by the law. The same applies to fornication.

Reply Obj. 3. Just as not every movement of pride is a mortal sin, so neither is every movement of lust, because the first movements of lust and the like are venial sins, even sometimes marriage intercourse. Nevertheless some acts of lust are mortal sins, while some movements of pride are venial: since the words quoted from Gregory are to be understood as comparing vices in their genus and not in their particular acts.

Reply Obj. 4. A circumstance is the more effective in aggravating a sin according as it comes nearer to the nature of sin. Hence although fornication is less grave on account

of the greatness of its incentive, yet on account of the matter about which it is, it has a greater gravity than immoderate eating, because it is about those things which tighten the bond of human fellowship, as stated above. Hence the argument does not prove.

FIFTH ARTICLE.

WHETHER IT WAS EVER LAWFUL TO HAVE A CONCUBINE?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that it has been sometime lawful to have a concubine. For just as the natural law requires a man to have but one wife, so does it forbid him to have a concubine. Yet at times it has been lawful to have several wives. Therefore it has also been lawful to have a concubine.

Obj. 2. Further, A woman cannot be at the same time a slave and a wife; wherefore according to the Law (Deut. xxi. 11 *seqq.*) a bondswoman gained her freedom by the very fact of being taken in marriage. Now we read that certain men who were most beloved of God, for instance Abraham and Jacob, had intercourse with their bondswomen. Therefore these were not wives, and consequently it was sometime lawful to have a concubine.

Obj. 3. Further, A woman who is taken in marriage cannot be cast out, and her son should have a share in the inheritance. Yet Abraham sent Agar away, and her son was not his heir (Gen. xxi. 14). Therefore she was not Abraham's wife.

On the contrary, Things opposed to the precepts of the decalogue were never lawful. Now to have a concubine is against a precept of the decalogue, namely, *Thou shalt not commit adultery.* Therefore it was never lawful.

Further, Ambrose says in his book on the patriarchs (*De Abraham* i. 4): *What is unlawful to a wife is unlawful to a husband.* But it is never lawful for a wife to put aside her own husband and have intercourse with another man. Therefore it was never lawful for a husband to have a concubine.

I answer that, Rabbi Moses says (*Dux errant.* iii.) that before

the time of the Law fornication was not a sin; and he proved his assertion from the fact that Juda had intercourse with Thamar. But this argument is not conclusive. For there is no need to excuse Jacob's sons from mortal sin, since they were accused to their father of a most wicked crime (Gen. xxxvii. 2), and consented to kill Jospeh and to sell him. Wherefore we must say that since it is against the natural law to have a concubine outside wedlock, as stated above (A. 3), it was never lawful neither in itself nor by dispensation. For as we have shown (*ibid.*) intercourse with a woman outside wedlock is an action improportionate to the good of the offspring which is the principal end of marriage: and consequently it is against the first precepts of the natural law which admit of no dispensation. Hence wherever in the Old Testament we read of concubines being taken by such men as we ought to excuse from mortal sin, we must needs understand them to have been taken in marriage, and yet to have been called concubines, because they had something of the character of a wife and something of the character of a concubine. In so far as marriage is directed to its principal end, which is the good of the offspring, the union of wife and husband is indissoluble or at least of a lasting nature, as shown above (A. 1), and in regard to this there is no dispensation. But in regard to the secondary end, which is the management of the household and community of works, the wife is united to the husband as his mate: and this was lacking in those who were known as concubines. For in this respect a dispensation was possible, since it is the secondary end of marriage. And from this point of view they bore some resemblance to concubines, and for this reason they were known as such.

Reply Obj. 1. As stated above (A. 1, *ad* 7, 8) to have several wives is not against the first precepts of the natural law, as it is to have a concubine; wherefore the argument does not prove.

Reply Obj. 2. The patriarchs of old by virtue of the dispensation which allowed them several wives, approached their bondswomen with the disposition of a husband towards

his wife. For these women were wives as to the principal and first end of marriage, but not as to the other union which regards the secondary end, to which bondage is opposed, since a woman cannot be at once mate and slave.

Reply Obj. 3. As in the Mosaic law it was allowable by dispensation to grant a bill of divorce in order to avoid wife-murder (as we shall state further on, Q. LXVII., A. 6), so by the same dispensation Abraham was allowed to send Agar away, in order to signify the mystery which the Apostle explains (Gal. iv. 22 *seqq.*). Again, that this son did not inherit belongs to the mystery, as explained in the same place. Even so Esau, the son of a free woman, did not inherit (Rom. ix. 13 *seqq.*). In like manner on account of the mystery it came about that the sons of Jacob born of bond and free women inherited, as Augustine says (*Tract.* xi. *in Joan.*) because *sons and heirs are born to Christ both of good ministers denoted by the free woman and of evil ministers denoted by the bondwoman.*

QUESTION LXVI.

OF BIGAMY AND OF THE IRREGULARITY CONTRACTED THEREBY.

(*In Five Articles.*)

In the next place we must consider bigamy and the irregularity contracted thereby. Under this head there are five points of inquiry: (1) Whether irregularity attaches to the bigamy that consists in having two successive wives? (2) Whether irregularity is contracted by one who has two wives at once? (3) Whether irregularity is contracted by marrying one who is not a virgin? (4) Whether bigamy is removed by Baptism? (5) Whether a dispensation can be granted to a bigamous person?

First Article.

WHETHER IRREGULARITY ATTACHES TO BIGAMY?

We proceed thus to the First Article:—

Objection 1. It would seem that irregularity is not attached to the bigamy that consists in having two wives successively. For multitude and unity are consequent upon being. Since then non-being does not cause plurality, a man who has two wives successively, the one in being, the other in non-being, does not thereby become the husband of more than one wife, so as to be debarred, according to the Apostle (1 Tim. iii. 2; Tit. i. 6), from the episcopate.

Obj. 2. Further, A man who commits fornication with several women gives more evidence of incontinence than one who has several wives successively. Yet in the first case a man does not become irregular. Therefore neither in the second should he become irregular.

Obj. 3. Further, If bigamy causes irregularity, this is either because of the sacrament, or because of the carnal intercourse. Now it is not on account of the former, for if a man had contracted marriage by words of the present and, his wife dying before the consummation of the marriage, he were to marry another, he would become irregular, which is against the decree of Innocent III. (cap. *Dubium*, De bigamia). Nor again is it on account of the second, for then a man who had committed fornication with several women would become irregular: which is false. Therefore bigamy nowise causes irregularity.

I answer that, By the sacrament of Order a man is appointed to the ministry of the sacraments; and he who has to administer the sacraments to others must suffer from no defect in the sacraments. Now there is a defect in a sacrament when the entire signification of the sacrament is not found therein. And the sacrament of marriage signifies the union of Christ with the Church, which is the union of one with one. Therefore the perfect signification of the sacrament requires the husband to have only one wife, and the wife to have but one husband; and consequently bigamy, which does away with this, causes irregularity. And there are four kinds of bigamy: the first is when a man has several lawful wives successively; the second is when a man has several wives at once, one in law, the other in fact; the third, when he has several successively, one in law, the other in fact; the fourth, when a man marries a widow. Accordingly irregularity attaches to all of these.

There is another consequent reason assigned, since those who receive the sacrament of Order should be signalized by the greatest spirituality, both because they administer spiritual things, namely the sacraments, and because they teach spiritual things, and should be occupied in spiritual matters. Wherefore since concupiscence is most incompatible with spirituality, inasmuch as it makes a man to be wholly carnal, they should give no sign of persistent concupiscence, which does indeed show itself in bigamous persons, seeing that they were unwilling to be content with one wife. The first reason however is the better.

Reply Obj. 1. The multitude of several wives at the same time is a multitude simply, wherefore a multitude of this kind is wholly inconsistent with the signification of the sacrament, so that the sacrament is voided on that account. But the multitude of several successive wives is a multitude relatively, wherefore it does not entirely destroy the signification of the sacrament, nor does it void the sacrament in its essence but in its perfection, which is required of those who are the dispensers of sacraments.

Reply Obj. 2. Although those who are guilty of fornication give proof of greater concupiscence, theirs is not a so persistent concupiscence, since by fornication one party is not bound to the other for ever; and consequently no defect attaches to the sacrament.

Reply Obj. 3. As stated above, bigamy causes irregularity, because it destroys the perfect signification of the sacrament: which signification is seated both in the union of minds, as expressed by the consent, and in the union of bodies. Wherefore bigamy must affect both of these at the same time in order to cause irregularity. Hence the decree of Innocent III. disposes of the statement of the Master (iv. *Sent.* D. 27.), namely that consent alone by words of the present is sufficient to cause irregularity.

Second Article.

Whether irregularity results from bigamy, when one husband has two wives, one in law, the other in fact?

We proceed thus to the Second Article:—

Objection 1. It would seem that irregularity does not result from bigamy when one husband has two wives at the same time, one in law and one in fact. For when the sacrament is void there can be no defect in the sacrament. Now when a man marries a woman in fact but not in law there is no sacrament, since such a union does not signify the union of Christ with the Church. Therefore since irregularity does not result from bigamy except on account of a defect in the

sacrament, it would seem that no irregularity attaches to bigamy of this kind.

Obj. 2. Further, If a man has intercourse with a woman whom he has married in fact and not in law, he commits fornication if he has not a lawful wife, or adultery if he has. But a man does not become irregular by dividing his flesh among several women by fornication or adultery. Therefore neither does he by the aforesaid kind of bigamy.

Obj. 3. Further, It may happen that a man, before knowing carnally the woman he has married in law, marries another in fact and not in law, and knows her carnally, whether the former woman be living or dead. Now this man has contracted marriage with several women either in law or in fact, and yet he is not irregular, since he has not divided his flesh among several women. Therefore irregularity is not contracted by reason of the aforesaid kind of bigamy.

I answer that, Irregularity is contracted in the two second kinds of bigamy, for although in the one there is no sacrament, there is a certain likeness to a sacrament. Wherefore these two kinds are secondary, and the first is the principal kind in causing irregularity.

Reply Obj. 1. Although there is no sacrament in this case there is a certain likeness to a sacrament, whereas there is no such likeness in fornication or adultery. Hence the comparison fails.

This suffices for the *Reply* to the *Second Objection.*

Reply Obj. 3. In this case the man is not reckoned a bigamist, because the first marriage lacked its perfect signification. Nevertheless if, by the judgment of the Church, he be compelled to return to his first wife and carnally to know her, he becomes irregular forthwith, because the irregularity is the result not of the sin but of imperfect signification.

Third Article.

Whether irregularity is contracted by marrying one who is not a virgin?

We proceed thus to the Third Article:—

Objection 1. It would seem that irregularity is not contracted by marrying one who is not a virgin. For a man's own defect is a greater impediment to him than the defect of another. But if the man himself who marries is not a virgin he does not become irregular. Therefore much less does he if his wife is not a virgin.

Obj. 2. Further, It may happen that a man marries a woman after corrupting her. Now, seemingly, such a man does not become irregular, since he has not divided his flesh among several, nor has his wife done so, and yet he marries a woman who is not a virgin. Therefore this kind of bigamy does not cause irregularity.

Obj. 3. Further, No man can become irregular except voluntarily. But sometimes a man marries involuntarily one who is not a virgin, for instance when he thinks her a virgin and afterwards, by knowing her carnally, finds that she is not. Therefore this kind does not always cause irregularity.

Obj. 4. Further, Unlawful intercourse after marriage is more guilty than before marriage. Now if a wife, after the marriage has been consummated, has intercourse with another man, her husband does not become irregular, otherwise he would be punished for his wife's sin. Moreover, it might happen that, after knowing of this, he pays her the debt at her asking, before she is accused and convicted of adultery. Therefore it would seem that this kind of bigamy does not cause irregularity.

On the contrary, Gregory says (*Regist.* ii.): *We command thee never to make unlawful ordinations, nor to admit to holy orders a bigamist, or one who has married a woman that is not a virgin, or one who is unlettered, or one who is deformed in his limbs, or bound to do penance or to perform some civil duty, or who is in any state of subjection.*

I answer that, In the union of Christ with the Church

unity is found on either side. Consequently whether we find divisions of the flesh on the part of the husband, or on the part of the wife, there is a defect of sacrament. There is, however, a difference, because on the part of the husband it is required that he should not have married another wife, but not that he should be a virgin, whereas on the part of the wife it is also required that she be a virgin. The reason assigned by those versed in the Decretals is because the bridegroom signifies the Church militant which is entrusted to the care of a bishop, and in which there are many corruptions, while the spouse signifies Christ Who was a virgin: wherefore virginity on the part of the spouse, but not on the part of the bridegroom, is required in order that a man be made a bishop. This reason, however, is expressly contrary to the words of the Apostle (Eph. v. 25): *Husbands, love your wives, as Christ also loved the Church,* which show that the bride signifies the Church, and the bridegroom Christ; and again he says (*verse* 23): *Because the husband is the head of the wife, as Christ is the head of the Church.* Wherefore others say that Christ is signified by the bridegroom, and that the bride signifies the Church triumphant in which there is no stain. Also that the synagogue was first united to Christ as a concubine; so that the sacrament loses nothing of its signification if the bridegroom previously had a concubine. But this is most absurd, since just as the faith of ancients and of moderns is one, so is the Church one. Wherefore those who served God at the time of the synagogue belonged to the unity of the Church in which we serve God. Moreover this is expressly contrary to Jerem. iii. 14, Ezech. xvi. 8, Osee ii. 16, where the espousals of the synagogue are mentioned explicitly: so that she was not as a concubine but as a wife. Again, according to this, fornication would be the sacred sign (*sacramentum*) of that union, which is absurd. Wherefore heathendom, before being espoused to Christ in the faith of the Church, was corrupted by the devil through idolatry. Hence we must say otherwise that irregularity is caused by a defect in the sacrament itself. Now when corruption of the flesh occurs outside wedlock on

account of a preceding marriage, it causes no defect in the sacrament on the part of the person corrupted, but it causes a defect in the other person, because the act of one who contracts marriage terminates not in himself, but in the other party, wherefore it takes its species from its term, which, moreover, in regard to that act, is the matter as it were of the sacrament. Consequently if a woman were able to receive Orders, just as her husband becomes irregular through marrying one who is not a virgin, but not through his not being a virgin when he marries, so also would a woman become irregular if she were to marry a man who is not a virgin, but not if she were no longer a virgin when she married—unless she had been corrupted by reason of a previous marriage.

This suffices for the *Reply* to the *First Objection.*

Reply Obj. 2. In this case opinions differ. It is, however, more probable that he is not irregular, because he has not divided his flesh among several women.

Reply Obj. 3. Irregularity is not the infliction of a punishment, but the defect of a sacrament. Consequently it is not always necessary for bigamy to be voluntary in order to cause irregularity. Hence a man who marries a woman, thinking her to be a virgin, whereas she is not, becomes irregular by knowing her carnally.

Reply Obj. 4. If a woman commits fornication after being married, her husband does not become irregular on that account, unless he again knows her carnally after she has been corrupted by adultery, since otherwise the corruption of the wife nowise affects the marriage act of the husband. But though he be compelled by law to pay her the debt, or if he do so at her request, being compelled by his own conscience, even before she is convicted of adultery, he becomes irregular, albeit opinions differ on this point. However, what we have said is more probable, since here it is not a question of sin, but of signification only.

FOURTH ARTICLE.

WHETHER BIGAMY IS REMOVED BY BAPTISM?

We proceed thus to the Fourth Article :—

Objection 1. It would seem that bigamy is removed by Baptism. For Jerome says in his commentary on the Epistle to Titus (i. 6, *the husband of one wife*) that if a man has had several wives before receiving Baptism, or one before and another after Baptism, he is not a bigamist. Therefore bigamy is removed by Baptism.

Obj. 2. Further, He who does what is more, does what is less. Now Baptism removes all sin, and sin is a greater thing than irregularity. Therefore it removes irregularity.

Obj. 3. Further, Baptism takes away all punishment resulting from an act. Now such is the irregularity of bigamy. Therefore, etc.

Obj. 4. Further, A bigamist is irregular because he is deficient in the representation of Christ. Now by Baptism we are fully conformed to Christ. Therefore this irregularity is removed.

Obj. 5. Further, The sacraments of the New Law are more efficacious than the sacraments of the Old Law. But the sacraments of the Old Law removed irregularities according to the Master's statement (iv. *Sent.*). Therefore Baptism also, being the most efficacious of the sacraments of the New Law, removes the irregularity consequent upon bigamy.

On the contrary, Augustine says (*De Bono Conjug.*, xviii.): *Those understand the question more correctly who maintain that a man who has married a second wife, though he was a catechumen or even a pagan at the time, cannot be ordained, because it is a question of a sacrament, not of a sin.*

Further, According to the same authority (*ibid.*) *a woman who has been corrupted while a catechumen or a pagan cannot after Baptism be consecrated among God's virgins.* Therefore in like manner one who was a bigamist before Baptism cannot be ordained.

I answer that, Baptism removes sin, but does not dissolve marriage. Wherefore since irregularity results from mar-

riage, it cannot be removed by Baptism, as Augustine says (*loc. cit.*).

Reply Obj. 1. In this case Jerome's opinion is not followed: unless perhaps he wished to explain that he means that a dispensation should be more easily granted.

Reply Obj. 2. It does not follow that what does a greater thing, does a lesser, unless it be directed to the latter. This is not so in the case in point, because Baptism is not directed to the removal of an irregularity.

Reply Obj. 3. This must be understood of punishments consequent upon actual sin, which are, or have yet to be, inflicted: for one does not recover virginity by Baptism, nor again undivision of the flesh.

Reply Obj. 4. Baptism conforms a man to Christ as regards the virtue of the mind, but not as to the condition of the body, which is affected by virginity or division of the flesh.

Reply Obj. 5. Those irregularities were contracted through slight and temporary causes, and consequently they could be removed by those sacraments. Moreover the latter were ordained for that purpose, whereas Baptism is not.

Fifth Article.

whether it is lawful for a bigamist to receive a dispensation?

We proceed thus to the Fifth Article:—

Objection 1. It would seem unlawful for a bigamist to be granted a dispensation. For it is said (Extra., De bigamis, cap. *Nuper*): *It is not lawful to grant a dispensation to clerics who, as far as they could do so, have taken to themselves a second wife.*

Obj. 2. Further, It is not lawful to grant a dispensation from the Divine law. Now whatever is in the canonical writings belongs to the Divine law. Since then in canonical Scripture the Apostle says (1 Tim. iii. 2): *It behoveth . . . a bishop to be . . . the husband of one wife,* it would seem that a dispensation cannot be granted in this matter.

Obj. 3. Further, No one can receive a dispensation in what is essential to a sacrament. But it is essential to the sacrament of Order that the recipient be not irregular, since the signification which is essential to a sacrament is lacking in one who is irregular. Therefore he cannot be granted a dispensation in this.

Obj. 4. Further, What is reasonably done cannot be reasonably undone. If, therefore, a bigamist can lawfully receive a dispensation, it was unreasonable that he should be irregular; which is inadmissible.

On the contrary, Pope Lucius granted a dispensation to the bishop of Palermo who was a bigamist, as stated in the gloss on cap. *Lector,* dist. 34.

Further, Pope Martin* says: *If a Reader marry a widow, let him remain a Reader, or if there be need for it, he may receive the Subdiaconate, but no higher order: and the same applies if he should be a bigamist.* Therefore he may at least receive a dispensation as far as the Subdiaconate.

I answer that, Irregularity attaches to bigamy not by natural, but by positive law; nor again is it one of the essentials of Order that a man be not a bigamist, which is evident from the fact that if a bigamist present himself for Orders, he receives the character. Wherefore the Pope can dispense altogether from such an irregularity; but a bishop, only as regards the minor Orders, though some say that in order to prevent religious wandering abroad he can dispense therefrom as regards the major Orders in those who wish to serve God in religion.

Reply Obj. 1. This Decretal shows that there is the same difficulty against granting a dispensation in those who have married several wives in fact, as if they had married them in law; but it does not prove that the Pope has no power to grant a dispensation in such cases.

Reply Obj. 2. This is true as regards things belonging to the natural law, and those which are essential to the sacraments and to faith. But in those which owe their institution to the apostles, since the Church has the same power now

* Martinus Bracarensis: cap. xliii.

as then of setting up and of putting down, she can grant a dispensation through him who holds the primacy.

Reply Obj. 3. Not every signification is essential to a sacrament, but that alone which belongs to the sacramental effect,* and this is not removed by irregularity.

Reply Obj. 4. In particular cases there is no ratio that applies to all equally, on account of their variety. Hence what is reasonably established for all, in consideration of what happens in the majority of cases, can be with equal reason done away in a certain definite case.

* Leonine edition reads *officium*, some read *effectum*; the meaning is the same, and is best rendered as above.

QUESTION LXVII.

OF THE BILL OF DIVORCE.

(*In Seven Articles.*)

We must now consider the bill of divorce, under which head there are seven points of inquiry: (1) Whether the indissolubility of marriage is of natural law? (2) Whether by dispensation it may become lawful to put away a wife? (3) Whether it was lawful under the Mosaic law? (4) Whether a wife who has been divorced may take another husband? (5) Whether the husband can marry again the wife whom he has divorced? (6) Whether the cause of divorce was hatred of the wife? (7) Whether the reasons for divorce had to be written on the bill?

First Article.

WHETHER INSEPARABLENESS OF THE WIFE IS OF NATURAL LAW?

We proceed thus to the First Article —

Objection 1. It would seem that inseparableness of the wife is not of natural law. For the natural law is the same for all. But no law save Christ's has forbidden the divorcing of a wife. Therefore inseparableness of a wife is not of natural law.

Obj. 2. Further, The sacraments are not of the natural law. But the indissolubility of marriage is one of the marriage goods. Therefore it is not of the natural law.

Obj. 3. Further, The union of man and woman in marriage is chiefly directed to the begetting, rearing, and instruction of the offspring. But all things are complete by a certain

time. Therefore after that time it is lawful to put away a wife without prejudice to the natural law.

Obj. 4. Further, The good of the offspring is the principal end of marriage. But the indissolubility of marriage is opposed to the good of the offspring, because, according to philosophers, a certain man cannot beget offspring of a certain woman, and yet he might beget of another, even though she may have had intercourse with another man. Therefore the indissolubility of marriage is against rather than according to the natural law.

On the contrary, Those things which were assigned to nature when it was well established in its beginning belong especially to the law of nature. Now the indissolubility of marriage is one of these things according to Matth. xix. 4, 6. Therefore it is of natural law.

Further, It is of natural law that man should not oppose himself to God. Yet man would, in a way, oppose himself to God if he were to sunder *what God hath joined together.* Since then the indissolubility of marriage is gathered from this passage (Matth. xix. 6) it would seem that it is of natural law.

I answer that, By the intention of nature marriage is directed to the rearing of the offspring, not merely for a time, but throughout its whole life. Hence it is of natural law that parents should lay up for their children, and that children should be their parents' heirs (2 Cor. xii. 14). Therefore, since the offspring is the common good of husband and wife, the dictate of the natural law requires the latter to live together for ever inseparably: and so the indissolubility of marriage is of natural law.

Reply Obj. 1. Christ's law alone *brought* mankind *to perfection,** by bringing man back to the state of the newness of nature. Wherefore neither Mosaic nor human laws could remove all that was contrary to the law of nature, for this was reserved exclusively to *the law of the spirit of life.*†

Reply Obj. 2. Indissolubility belongs to marriage in so far as the latter is a sign of the perpetual union of Christ with

* Cf. Heb. vii. 19. † Cf. Rom. viii. 2.

the Church, and in so far as it fulfils an office of nature that is directed to the good of the offspring, as stated above. But since divorce is more directly incompatible with the signification of the sacrament than with the good of the offspring, with which it is incompatible consequently, as stated above (Q. LXV., A. 2, *ad* 5), the indissolubility of marriage is implied in the good of the sacrament rather than in the good of the offspring, although it may be connected with both. And in so far as it is connected with the good of the offspring, it is of the natural law, but not as connected with the good of the sacrament.

Reply Obj. 3 may be gathered from what has been said.

Reply Obj. 4. Marriage is chiefly directed to the common good in respect of its principal end, which is the good of the offspring; although in respect of its secondary end it is directed to the good of the contracting party, in so far as it is by its very nature a remedy for concupiscence. Hence marriage laws consider what is expedient for all rather than what may be suitable for one. Therefore although the indissolubility of marriage hinder the good of the offspring with regard to some individual, it is proportionate with the good of the offspring absolutely speaking: and for this reason the argument does not prove.

SECOND ARTICLE.

WHETHER IT MAY HAVE BEEN LAWFUL BY DISPENSATION TO PUT AWAY A WIFE?

We proceed thus to the Second Article:—

Objection 1. It seems that it could not be lawful by dispensation to put away a wife. For in marriage anything that is opposed to the good of the offspring is against the first precepts of the natural law, which admit of no dispensation. Now such is the putting away of a wife, as stated above (A. 1). Therefore, etc.

Obj. 2. Further, A concubine differs from a wife especially in the fact that she is not inseparably united. But by no

dispensation could a man have a concubine. Therefore by no dispensation could he put his wife away.

Obj. 3. Further, Men are as fit to receive a dispensation now as of old. But now a man cannot receive a dispensation to divorce his wife. Neither, therefore, could he in olden times.

On the contrary, Abraham carnally knew Agar with the disposition of a husband towards his wife, as stated above (Q. LXV., A. 5, *ad* 2, 3). Now by Divine command he sent her away, and yet sinned not. Therefore it could be lawful by dispensation for a man to put away his wife.

I answer that, In the commandments, especially those which in some way are of natural law, a dispensation is like a change in the natural course of things: and this course is subject to a twofold change. First, by some natural cause whereby another natural cause is hindered from following its course: it is thus in all things that happen by chance less frequently in nature. In this way, however, there is no variation in the course of those natural things which happen always, but only in the course of those which happen frequently. Secondly, by a cause altogether supernatural, as in the case of miracles: and in this way there can be a variation in the course of nature, not only in the course which is appointed for the majority of cases, but also in the course which is appointed for all cases, as instanced by the sun standing still at the time of Josue, and by its turning back at the time of Ezechias, and by the miraculous eclipse at the time of Christ's Passion.* In like manner the reason for a dispensation from a precept of the law of nature is sometimes found in the lower causes, and in this way a dispensation may bear upon the secondary precepts of the natural law, but not on the first precepts because these are always existent as it were, as stated above (Q. LXV., A. 1) in reference to the plurality of wives and so forth. But sometimes this reason is found in the higher causes, and then a dispensation may be given by God even from the first precepts of the natural law, for the sake of signifying or showing some Divine

* Jos. x. 14; 4 Kings xx. 10; Isa. xxxviii. 8; Matth. xxvii. 15.

mystery, as instanced in the dispensation vouchsafed to Abraham in the slaying of his innocent son. Such dispensations, however, are not granted to all generally, but to certain individual persons, as also happens in regard to miracles. Accordingly, if the indissolubility of marriage is contained among the first precepts of the natural law, it could only be a matter of dispensation in this second way; but, if it be one of the second precepts of the natural law, it could be a matter of dispensation even in the first way. Now it would seem to belong rather to the secondary precepts of the natural law. For the indissolubility of marriage is not directed to the good of the offspring, which is the principal end of marriage, except in so far as parents have to provide for their children for their whole life, by due preparation of those things that are necessary in life. Now this preparation does not pertain to the first intention of nature, in respect of which all things are common. And therefore it would seem that to put away one's wife is not contrary to the first intention of nature, and consequently that it is contrary not to the first but to the second precepts of the natural law. Therefore, seemingly, it can be a matter of dispensation even in the first way.

Reply Obj. 1. The good of the offspring, in so far as it belongs to the first intention of nature, includes procreation, nourishment, and instruction, until the offspring comes to perfect age. But that provision be made for the children by bequeathing to them the inheritance or other goods belongs seemingly to the second intention of the natural law.

Reply Obj. 2. To have a concubine is contrary to the good of the offspring, in respect of nature's first intention in that good, namely the rearing and instruction of the child, for which purpose it is necessary that the parents remain together permanently; which is not the case with a concubine, since she is taken for a time. Hence the comparison fails. But in respect of nature's second intention, even the having of a concubine may be a matter of dispensation as evidenced by Osee i.

Reply Obj. 3. Although indissolubility belongs to the second intention of marriage as fulfilling an office of nature, it belongs to its first intention as a sacrament of the Church. Hence, from the moment it was made a sacrament of the Church, as long as it remains such it cannot be a matter of dispensation, except perhaps by the second kind of dispensation.

Third Article.

whether it was lawful to divorce a wife under the mosaic law?

We proceed thus to the Third Article:—

Objection 1. It would seem that it was lawful to divorce a wife under the Mosaic law. For one way of giving consent is to refrain from prohibiting when one can prohibit. It is also unlawful to consent to what is unlawful. Since then the Mosaic law did not forbid the putting away of a wife and did no wrong by not forbidding it, for *the law . . . is holy* (Rom. vii. 12), it would seem that divorce was at one time lawful.

Obj. 2. Further, The prophets spoke inspired by the Holy Ghost, according to 2 Pet. i. 21. Now it is written (Mal. ii. 16): *When thou shalt hate her, put her away.* Since then that which the Holy Ghost inspires is not unlawful, it would seem that it was not always unlawful to divorce a wife.

Obj. 3. Further, Chrysostom* says that even as the apostles permitted second marriages, so Moses allowed the bill of divorce. But second marriages are not sinful. Therefore neither was it sinful under the Mosaic law to divorce a wife.

Obj. 4. *On the contrary,* Our Lord said (Matth. xix. 8) that Moses granted the Jews the bill of divorce by reason of the hardness of their heart. But their hardness of heart did not excuse them from sin. Neither therefore did the law about the bill of divorce.

Obj. 5. Further, Chrysostom* says (*ibid.*) that *Moses, by granting the bill of divorce, did not indicate the justice of*

* *Hom.* xxxii. in the *Opus Imperfectum* falsely ascribed to S. John Chrysostom.

God, but deprived their sin of its guilt, for while the Jews acted as though they were keeping the law, their sin seemed to be no sin.

I answer that, On this point there are two opinions. For some say that under the Law those who put away their wives, after giving them a bill of divorce, were not excused from sin, although they were excused from the punishment which they should have suffered according to the Law: and that for this reason Moses is stated to have permitted the bill of divorce. Accordingly they reckon four kinds of permission: one by absence of precept, so that when a greater good is not prescribed, a lesser good is said to be permitted: thus the Apostle by not prescribing virginity, permitted marriage (1 Cor. vii.). The second is by absence of prohibition: thus venial sins are said to be permitted because they are not forbidden. The third is by absence of prevention, and thus all sins are said to be permitted by God, in so far as He does not prevent them, whereas He can. The fourth is by omission of punishment, and in this way the bill of divorce was permitted in the Law, not indeed for the sake of obtaining a greater good, as was the dispensation to have several wives, but for the sake of preventing a greater evil, namely wife-murder to which the Jews were prone on account of the corruption of their irascible appetite. Even so they were allowed to lend money for usury to strangers, on account of corruption in their concupiscible appetite, lest they should exact usury of their brethren; and again on account of the corruption of suspicion in the reason they were allowed the sacrifice of jealousy, lest mere suspicion should corrupt their judgment. But because the Old Law, though it did not confer grace, was given that it might indicate sin, as the saints are agreed in saying, others are of opinion that if it had been a sin for a man to put away his wife, this ought to have been indicated to him, at least by the law or the prophets: *Show My people their wicked doings* (Isa. lviii. 1): else they would seem to have been neglected, if those things which are necessary for salvation and which they knew not were never made known to them: and this cannot be ad-

mitted, because the righteousness of the Law observed at the time of the Law would merit eternal life. For this reason they say that although to put away one's wife is wrong in itself, it nevertheless became lawful by God's permitting it, and they confirm this by the authority of Chrysostom, who says (*loc. cit.*) that *the Lawgiver by permitting divorce removed the guilt from the sin.* Although this opinion has some probability the former is more generally held: wherefore we must reply to the arguments on both sides.*

Reply Obj. 1. He who can forbid, sins not by omitting to forbid if he has no hope of correcting, but fears by forbidding to furnish the occasion of a greater evil. Thus it happened to Moses: wherefore acting on Divine authority he did not forbid the bill of divorce.

Reply Obj. 2. The prophets, inspired by the Holy Ghost, said that a wife ought to be put away, not as though this were a command of the Holy Ghost, but as being permitted lest greater evils should be perpetrated.

Reply Obj. 3. This likeness of permission must not be applied to every detail, but only to the cause which was the same in both cases, since both permissions were granted in order to avoid some form of wickedness.

Reply Obj. 4. Although their hardness of heart excused them not from sin, the permission given on account of that hardness excused them. For certain things are forbidden those who are healthy in body, which are not forbidden the sick, and yet the sick sin not by availing themselves of the permission granted to them.

Reply Obj. 5. A good may be omitted in two ways. First, in order to obtain a greater good, and then the omission of that good becomes virtuous by being directed to a greater good; thus Jacob rightly omitted to have only one wife, on account of the good of the offspring. In another way a good is omitted in order to avoid a greater evil, and then if this is done with the authority of one who can grant a dispensation, the omission of that good is not sinful, and yet

* Cf. I.-II., Q. CV., A. 4, *ad* 8; Q. CVIII., A. 3, *ad* 2. *Contra Gentes* iii., cap. 123.

it does not also become virtuous. In this way the indissolubility of marriage was suspended in the law of Moses in order to avoid a greater evil, namely wife-murder. Hence Chrysostom says that *he removed the guilt from the sin.* For though divorce remained inordinate, for which reason it is called a sin, it did not incur the debt of punishment, either temporal or eternal, in so far as it was done by Divine permission: and thus its guilt was taken away from it. And therefore he says again (*ibid.*) that *divorce was permitted, an evil indeed, yet lawful.* Those who hold the first opinion understand by this only that divorce incurred the debt of temporal punishment.

Fourth Article.

Whether it was lawful for a divorced wife to have another husband?

We proceed thus to the Fourth Article:—

Objection 1. It would seem that it was lawful for a divorced wife to have another husband. For in divorce the husband did a greater wrong by divorcing his wife than the wife by being divorced. But the husband could, without sin, marry another wife. Therefore the wife also could, without sin, marry another husband.

Obj. 2. Further, Augustine, speaking about bigamy, says (*De Bono Conjug.* xv., xviii.) that *when it was the manner it was no sin.* Now at the time of the Old Law it was the custom for a wife after divorce to marry another husband: *When she is departed and marrieth another husband,* etc. Therefore the wife sinned not by marrying another husband.

Obj. 3. Further, Our Lord showed that the justice of the New Testament is superabundant in comparison with the justice of the Old Testament (Matth. v.). Now He said that it belongs to the superabundant justice of the New Testament that the divorced wife marry not another husband (*ibid.* 32). Therefore it was lawful in the Old Law.

Obj. 4. *On the contrary* are the words of Matth. v. 32, *He that shall marry her that is put away committeth adultery.* Now

adultery was never permitted in the Old Law. Therefore it was not lawful for the divorced wife to have another husband.

Obj. 5. Further, It is written (Deut. xxiv. 3) that a divorced woman who marries another husband *is defiled, and is become abominable before the Lord.* Therefore she sinned by marrying another husband.

I answer that, According to the first above-mentioned opinion (A. 3), she sinned by marrying another husband after being divorced, because her first marriage still held good. For *the woman . . . whilst her husband liveth, is bound to the law* of her husband (Rom. vii. 2): and she could not have several husbands at one time. But according to the second opinion, just as it was lawful by virtue of the Divine dispensation for a husband to divorce his wife, so could the wife marry another husband, because the indissolubility of marriage was removed by reason of the divine dispensation: and as long as that indissolubility remains the saying of the Apostle holds.

Accordingly to reply to the arguments on either side,—

Reply Obj. 1. It was lawful for a husband to have several wives at one time by virtue of the divine dispensation: wherefore having put one away he could marry another even though the former marriage were not dissolved. But it was never lawful for a wife to have several husbands. Wherefore the comparison fails.

Reply Obj. 2. In this saying of Augustine manner (*mos*) does not signify custom but good manners; in the same sense a person is said to have manners (*morigeratus*) because he has good manners; and *moral* philosophy takes its name from the same source.

Reply Obj. 3. Our Lord shows the superabundance of the New Law over the Old in respect of the counsels, not only as regards those things which the Old Law permitted, but also as regards those things which were forbidden in the Old Law, and yet were thought by many to be permitted, on account of the precepts being incorrectly explained,—for instance that of the hatred towards our enemies: and so is it in the matter of divorce.

Reply Obj. 4. The saying of our Lord refers to the time of the New Law, when the aforesaid permission was recalled. In the same way we are to understand the statement of Chrysostom*, who says that *a man who divorces his wife according to the law is guilty of four crimes : for in God's sight he is a murderer,* in so far as he has the purpose of killing his wife unless he divorce her; *and because he divorces her without her having committed fornication,* in which case alone the law of the Gospel allows a man to put away his wife; *and again, because he makes her an adulteress, and the man whom she marries an adulterer.*

Reply Obj. 5. A gloss observes here: *She is defiled and abominable, namely in the judgment of him who first put her away as being defiled,* and consequently it does not follow that she is defiled absolutely speaking. Or she is said to be defiled just as a person who had touched a dead or leprous body was said to be unclean with the uncleanness, not of sin, but of a certain legal irregularity. Wherefore a priest could not marry a widow or a divorced woman.

FIFTH ARTICLE.

WHETHER A HUSBAND COULD LAWFULLY TAKE BACK THE WIFE HE HAD DIVORCED?

We proceed thus to the Fifth Article :—

Objection 1. It would seem that a husband could lawfully take back the wife he had divorced. For it is lawful to undo what was ill done. But for the husband to divorce his wife was ill done. Therefore it was lawful for him to undo it, by taking back his wife.

Obj. 2. Further, It has always been lawful to be indulgent to the sinner, because this is a moral precept, which obtains in every law. Now the husband by taking back the wife he had divorced was indulgent to one who had sinned. Therefore this also was lawful.

Obj. 3. Further, The reason given (Deut. xxiv. 4) for its

* *Hom.* xii. in the *Opus Imperfectum* falsely ascribed to S. John Chrysostom.

being unlawful to take back a divorced wife was *because she is defiled.* But the divorced wife is not defiled except by marrying another husband. Therefore at least it was lawful to take back a divorced wife before she married again.

On the contrary, It is said (Deut. xxiv. 4) that *the former husband cannot take her again,* etc.

I answer that, In the law concerning the bill of divorce two things were permitted, namely for the husband to put away the wife, and for the divorced wife to take another husband; and two things were commanded, namely that the bill of divorce should be written, and secondly that the husband who divorced his wife could not take her back. According to those who hold the first opinion (A. 3) this was done in punishment of the woman who married again, and that it was by this sin that she was defiled: but according to the others it was done that a husband might not be too ready to divorce his wife if he could nowise take her back afterwards.

Reply Obj. 1. In order to prevent the evil committed by a man in divorcing his wife, it was ordered that the husband could not take back his divorced wife, as stated above: and for this reason it was ordered by God.

Reply Obj. 2. It was always lawful to be indulgent to the sinner as regards the unkindly feelings of the heart, but not as regards the punishment appointed by God.

Reply Obj. 3. There are two opinions on this point. For some say that it was lawful for a divorced wife to be reconciled to her husband, unless she were joined in marriage to another husband. For then, on account of the adultery to which she had voluntarily yielded, it was assigned to her in punishment that she should not return to her former husband. Since, however, the law makes no distinction in its prohibition, others say that from the moment that she was put away she could not be taken back, even before marrying again, because the defilement must be understood not in reference to sin, but as explained above (A. 4, *ad* 3).

SIXTH ARTICLE.

WHETHER THE REASON FOR DIVORCE WAS HATRED FOR THE WIFE?

We proceed thus to the Sixth Article:—

Objection 1. It would seem that the reason for divorce was hatred for the wife. For it is written (Mal. ii. 16): *When thou shalt hate her put her away.* Therefore, etc.

Obj. 2. Further, It is written (Deut. xxiv. 1): *If . . . she find not favour in his eyes, for some uncleanness,* etc. Therefore the same conclusion follows as before.

Obj. 3. *On the contrary,* Barrenness and fornication are more opposed to marriage than hatred. Therefore they ought to have been reasons for divorce rather than hatred.

Obj. 4. Further, Hatred may be caused by the virtue of the person hated. Therefore, if hatred is a sufficient reason, a woman could be divorced on account of her virtue, which is absurd.

Obj. 5. Further, *If a man marry a wife and afterwards hate her, and seek occasions to put her away** alleging that she was not a virgin when he married her, should he fail to prove this, he shall be beaten, and shall be condemned in a hundred sicles of silver, and he shall be unable to put her away all the days of his life (Deut. xxii. 13–19). Therefore hatred is not a sufficient reason for divorce.

I answer that, It is the general opinion of holy men that the reason for permission being given to divorce a wife was the avoidance of wife-murder. Now the proximate cause of murder is hatred: wherefore the proximate cause of divorce was hatred. But hatred proceeds, like love, from a cause. Wherefore we must assign to divorce certain remote causes which were a cause of hatred. For Augustine says in his gloss (*De Serm. Dom. in Monte,* i. 14): *In the Law there were many causes for divorcing a wife: Christ admitted none but fornication: and He commands other grievances to be borne for conjugal fidelity and chastity.* Such causes are imperfections either of body, as sickness or some notable deformity,

* The rest of the passage is apparently quoted from memory.

or in soul, as fornication or the like which amounts to moral depravity. Some, however, restrict these causes within narrower limits, saying with sufficient probability that it was not lawful to divorce a wife except for some cause subsequent to the marriage; and that not even then could it be done for any such cause, but only for such as could hinder the good of the offspring, whether in body as barrenness, or leprosy and the like, or in soul, for instance if she were a woman of wicked habits which her children through continual contact with her would imitate. There is however a gloss on Deut. xxiv. 1, *If . . . she find not favour in his eyes*, which would seem to restrict them yet more, namely to sin, by saying that there *uncleanness* denotes sin: but *sin* in the gloss refers not only to the morality of the soul but also to the condition of the body. Accordingly we grant the first two objections.

Reply Obj. 3. Barrenness and other like things are causes of hatred, and so they are remote causes of divorce.

Reply Obj. 4. No one is hateful on account of virtue as such, because goodness is the cause of love. Wherefore the argument does not hold.

Reply Obj. 5. The husband was punished in that case by being unable to put away his wife for ever, just as in the case when he had corrupted a maid (Deut. xxii. 28–30).

Seventh Article.

whether the causes of divorce had to be written in the bill?

We proceed thus to the Seventh Article:—

Objection 1. It would seem that the causes of divorce had to be written in the bill: because the husband was absolved from the punishment of the law by the written bill of divorce. But this would seem altogether unjust, unless sufficient causes were alleged for a divorce. Therefore it was necessary for them to be written in the bill.

Obj. 2. Further, Seemingly this document was of no use except to show the causes for divorce. Therefore, if they

were not written down, the bill was delivered for no purpose.

Obj. 3. Further, The Master says that it was so in the text (iv. *Sent.* D. 33.).

On the contrary, The causes for divorce were either sufficient or not. If they were sufficient, the wife was debarred from a second marriage, though this was allowed her by the Law. If they were insufficient, the divorce was proved to be unjust, and therefore could not be effected. Therefore the causes for divorce were by no means particularized in the bill.

I answer that, The causes for divorce were not particularized in the bill, but were indicated in a general way, so as to prove the justice of the divorce. According to Josephus (*Antiq.* iv. 6) this was in order that the woman, having the written bill of divorce, might take another husband, else she would not have been believed. Wherefore according to him it was written in this wise: *I promise never to have thee with me again.* But according to Augustine (*Contra Faust.* xix. 26) the bill was put into writing in order to cause a delay, and that the husband might be dissuaded by the counsel of the notaries to refrain from his purpose of divorce.

This suffices for the *Replies* to the *Objections.*

QUESTION LXVIII.

OF ILLEGITIMATE CHILDREN.

(*In Three Articles.*)

WE must now consider children of illegitimate birth. Under this head there are three points of inquiry: (1) Whether those born out of true marriage are illegitimate? (2) Whether children should suffer any loss through being illegitimate? (3) Whether they can be legitimized?

FIRST ARTICLE.

WHETHER CHILDREN BORN OUT OF TRUE MARRIAGE ARE ILLEGITIMATE?

We proceed thus to the First Article:—

Objection 1. It would seem that children born out of true marriage are legitimate. For he that is born according to law is called a legitimate son. Now everyone is born according to law, at least the law of nature, which has more force than any other. Therefore every child is to be called legitimate.

Obj. 2. Further, It is the common saying that a legitimate child is one born of a legitimate marriage, or of a marriage that is deemed legitimate in the eyes of the Church. Now it happens sometimes that a marriage is deemed legitimate in the eyes of the Church, whereas there is some impediment affecting its validity; which impediment may be known to the parties who marry in the presence of the Church: or they may marry in secret and be ignorant of the impediment, in which case their marriage would seem legitimate in the eyes of the Church, for the very reason that it is not pre-

vented by the Church. Therefore children born out of true marriage are not illegitimate.

On the contrary, Illegitimate is that which is against the law. Now those who are born out of wedlock are born contrary to the law. Therefore they are illegitimate.

I answer that, Children are of four conditions. Some are natural and legitimate, for instance those who are born of a true and lawful marriage; some are natural and illegitimate, as those who are born of fornication; some are legitimate and not natural, as adopted children; some are neither legitimate nor natural; such are those born of adultery or incest, for these are born not only against the positive law, but against the express natural law. Hence we must grant that some children are illegitimate.

Reply Obj. 1. Although those who are born of an unlawful intercourse are born according to the nature common to man and all animals, they are born contrary to the law of nature which is proper to man: since fornication, adultery, and the like are contrary to the law of nature. Hence the like are not legitimate by any law.

Reply Obj. 2. Ignorance, unless it be affected, excuses unlawful intercourse from sin. Wherefore those who contract together in good faith in the presence of the Church, although there be an impediment, of which however they are ignorant, sin not, nor are their children illegitimate. If, however, they know of the impediment, although the Church upholds their marriage because she knows not of the impediment, they are not excused from sin, nor do their children avoid being illegitimate. Neither are they excused if they know not of the impediment and marry secretly, because such ignorance would appear to be affected.

Second Article.

whether children should suffer any loss through being illegitimate?

We proceed thus to the Second Article :—

Objection 1. It would seem that children ought not to suffer any loss through being illegitimate. For a child should not be punished on account of his father's sin, according to the Lord's saying (Ezech. xviii. 20). But it is not his own but his father's fault that he is born of an unlawful union. Therefore he should not incur a loss on this account.

Obj. 2. Further, Human justice is copied from Divine. Now God confers natural goods equally on legitimate and illegitimate children. Therefore illegitimate should be equalled to legitimate children according to human laws.

On the contrary, It is stated (Gen. xxv. 5, 6) that *Abraham gave all his possessions to Isaac, and that to the children of the concubines he gave gifts :* and yet the latter were not born of an unlawful intercourse. Much more, therefore, ought those born of an unlawful intercourse to incur loss by not inheriting their father's property.

I answer that, A person is said to incur a loss for some cause in two ways: First, because he is deprived of his due, and thus an illegitimate child incurs no loss. Secondly, because something is not due to him, which might have been due otherwise, and thus an illegitimate son incurs a twofold loss. First, because he is excluded from legitimate acts, such as offices and dignities, which require a certain respectability in those who perform them. Secondly, he incurs a loss by not succeeding to his father's inheritance. Nevertheless natural sons can inherit a sixth only, whereas spurious children cannot inherit any portion, although by natural law their parents are bound to provide for their needs. Hence it is part of a bishop's care to compel both parents to provide for them.

Reply Obj. 1. To incur a loss in this second way is not a punishment. Hence we do not say that a person is pun-

ished by not succeeding to the throne through not being the king's son. In like manner it is no punishment to an illegitimate child that he has no right to that which belongs to the legitimate children.

Reply Obj. 2. Illegitimate intercourse is contrary to the law, not as an act of the generative power, but as proceeding from a wicked will. Hence an illegitimate son incurs a loss, not in those things which come to him by his natural origin, but in those things which are dependent on the will for being done or possessed.

THIRD ARTICLE.

WHETHER AN ILLEGITIMATE SON CAN BE LEGITIMIZED?

We proceed thus to the Third Article:—

Objection 1. It would seem that an illegitimate son cannot be legitimized. For the legitimate child is as far removed from the illegitimate as the illegitimate from the legitimate. But a legitimate child is never made illegitimate. Neither, therefore, is an illegitimate child ever made legitimate.

Obj. 2. Further, Illegitimate intercourse begets an illegitimate child. But illegitimate intercourse never becomes legitimate. Neither, therefore, can an illegitimate son become legitimate.

On the contrary, What is done by the law can be undone by the law. Now the illegitimacy of children is an effect of positive law. Therefore an illegitimate child can be legitimized by one who has legal authority.

I answer that, An illegitimate child can be legitimized, not so that he be born of a legitimate intercourse, because this intercourse is a thing of the past and can never be legitimized from the moment that it was once illegitimate. But the child is said to be legitimized, in so far as the losses which an illegitimate child ought to incur are withdrawn by the authority of the law. There are six ways of becoming legitimate: two according to the canons (C. *Conquestus* and C. *Tanta*), namely when a man marries the woman of whom he has an unlawful child (if it were not a case of adultery), and by special indulgence and dispensation of the lord Pope.

The other four ways are according to the laws: (1) If the father offer his natural son to the emperor's court, for by this very fact the son is legitimate on account of the reputation of the court; (2) if the father designate him in his will as his legitimate heir, and the son afterwards offer the will to the emperor; (3) if there be no legitimate son and the son himself offer himself to the emperor; (4) if the father designate him as legitimate in a public document or in a document signed by three witnesses, without calling him natural.

Reply Obj. 1. A favour may be bestowed on a person without injustice, but a person cannot be damnified except for a fault. Hence an illegitimate child can be legitimized rather than *vice versa;* for although a legitimate son is sometimes deprived of his inheritance on account of his fault, he is not said to be illegitimate, because he was legitimately begotten.

Reply Obj. 2. Illegitimate intercourse has an inherent inseparable defect whereby it is opposed to the law: and consequently it cannot be legitimized. Nor is there any comparison with an illegitimate child who has no such defect.

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